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PUC DOCKET NO. 52485

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| APPLICATION OF SOUTHWESTERN | § | BEFORE THE PUBLIC UTILITY |
| ELECTRIC POWER COMPANY TO | § | COMMISSION OF TEXAS |
| AMEND ITS CERTIFICATE OF | § | |
| CONVENIENCE AND NECESSITY TO | § | |
| CONVERT HARRINGTON | § | |
| GENERATING STATION FROM | § | |
| COAL TO NATURAL GAS | § | |
| | § | |

SIERRA CLUB’S MOTION FOR LEAVE TO INTERVENE

Under Section 22.104 of the Procedural Rules of the Public Utility Commission of Texas (the “Commission” or “PUC”), Sierra Club moves for leave to intervene in the above-captioned proceeding regarding Southwestern Public Service Company’s (“SPS” or the “Company”) Application for a Certificate of Public Convenience and Necessity (“CCN”), filed with the Commission on August 27, 2021. Sierra Club respectfully requests that the Commission enter an order permitting Sierra Club’s intervention and participation in this proceeding.

In support of this motion, Sierra Club states as follows:

1. The names and contact information for Sierra Club’s authorized representatives:

Joshua Smith
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2. Sierra Club is a national, non-profit environmental and conservation organization incorporated under the laws of the State of California. Sierra Club is dedicated to the protection of public health and the environment. Sierra Club moves to intervene in this proceeding on behalf of itself and its more than 23,630 Sierra Club members who live and purchase utility services in Texas, many of whom are residential customers of SPS.

3. In this proceeding, SPS seeks approval under the Public Utilities Regulatory Act (“PURA”) § 37.056 to convert all three units at its Harrington coal-burning power plant to burn gas and continue operating until the end of their useful lives, in 2036, 2038, and 2040, respectively.¹ The conversion will involve the construction of a new gas pipeline to Harrington and the modification of all three boilers to burn gas. SPS estimates the project will cost as much as \$75 million. The purpose of the proposed conversion is to ensure compliance with EPA’s National Ambient Air Quality Standards (“NAAQS”) for sulfur dioxide. As a result of violations of the NAAQS caused by the Harrington coal plant, SPS entered into an agreed order with the Texas Commission on Environmental Quality to cease burning coal at Harrington by December 31, 2024.²

¹ See Direct Testimony of Willian Grant at 15 (Aug. 27, 2021).

² *Id.* at 11; SPS Application at 4-5.

4. Sierra Club seeks to participate in this proceeding in order to protect its justiciable and administratively cognizable organizational as well as the interests of its members who are customers of SPS or live, work, and recreate in and around Harrington, who will be directly affected by any Commission order approving SPS's application to convert Harrington to burn gas and recover those costs from customers. Specifically, Sierra Club and its members who are SPS customers have economic and environmental interests in ensuring that SPS's plan to continue operating the Harrington plant is the least-cost means of complying with current and impending environmental regulations. Sierra Club members have economic and environmental interests in whether it is prudent, necessary, and in the public interest to invest another \$75 million to continue to operating Harrington for nearly two more decades, or whether clean energy alternatives would be more affordable or lower risk, while maintaining reliability. Because the costs of SPS's proposed conversion will be passed on to customers through increased electricity rates, Sierra Club members who are SPS customers have an economic interest in the outcome of this proceeding.

5. Sierra Club and its members also have environmental interests in transitioning away from polluting fossil fuel generation resources as soon as possible. Although Sierra Club ultimately supports the cessation of burning coal at Harrington because it will reduce pollution and overall system costs, Sierra Club opposes SPS's proposed investment in additional fossil-fuel infrastructure to extend the life of Harrington and continue burning fossil fuels that contribute to pollute the surrounding communities and contribute to climate change. Thus, Sierra Club and its members have protectible and substantial economic, environmental, and public health interests in the outcome of this proceeding. Sierra Club and its members also have procedural and organizational interests

in exercising their rights to participate in this proceeding to advocate for accelerating the electric sector's transition from high-cost, harmful fossil-fuel based generation to cleaner, more affordable energy sources to save customers money, preserve reliability, and assist impacted communities and workers.

6. Sierra Club seeks full intervention in order to ensure that its interests in assuring reasonable investment, operational, and energy market decisions in SPS's energy fleet are fully represented. Specifically, Sierra Club will investigate whether SPS's proposed conversion of all three Harrington units is the least-cost option for SPS customers; if SPS has a continuing need for the full 1,040 MW capacity of the Harrington power plant, given the Company's current capacity surplus and its stagnant or declining demand; if SPS's analysis supports the conversion of the plant, particularly in light of recent, significant increases in gas prices and the Company's admitted errors and unsupported assumptions in the underlying New Mexico Integrated Resource Plan, upon which the Harrington conversion analysis is based; whether the Company could avoid costs by converting only one or two units, or building a smaller capacity gas pipeline; and investigate unexplained costs and potential rate impacts associated with the proposed conversion. Sierra Club may advance other positions as it conducts discovery in this proceeding.

7. Sierra Club's participation in this proceeding would further the public interest. Indeed, Sierra Club routinely intervenes in public utility commission proceedings nationwide and in Texas to advocate for utility practices, investments, and policies that promote the development of cost-effective energy efficiency and clean, renewable energy, which can reduce overall system costs, electricity rates, and pollution, while also

maintaining reliability.³

8. With that policy and advocacy experience in mind, Sierra Club respectfully submits that its participation will help develop a thorough record, stimulate a robust evaluation of the issues to be decided, and inform the Commission's ultimate decision about the prudence, necessity, and public interest in the Harrington conversion and its impacts on rates. Through discovery, the filing of expert testimony, examination of witnesses, and legal briefing, Sierra Club will help to illuminate the economic and environmental risks associated with Harrington's conversion, as well as the potential benefits of replacing Harrington with more affordable generation, among other issues the Commission will evaluate in this case.

9. No other party to this docket adequately represents those unique institutional and policy interests, and Sierra Club has the experience and expertise to assist the Commission in evaluating those issues. Moreover, Sierra Club's members have a unique interest in avoiding the continued investment in expensive, aging fossil-fuel energy resources, and seeks to intervene to investigate and evaluate whether there are cleaner, more affordable means of reliably serving SPS's load obligations while also reducing local pollution and reducing the impact of climate change. Sierra Club is uniquely situated to represent the interests of its members in this proceeding as a result of its expertise and experience in energy policy and law, renewable energy generation, energy efficiency, and environmental regulations that affect the market for energy generation and demand response.

³ See, e.g., *Application of Southwestern Public Service Company for Authority to Change Rates*, PUC Docket No. 47527 (filed Aug. 21, 2017); *Application of Southwestern Public Service Company for Authority to Change Rates*, PUC Docket No. 49831 (filed Aug. 8, 2019).

10. Sierra Club's participation will not delay the proceedings or prejudice any party. The Commission has not set a case schedule in this proceeding, or referred the matter to an Administrative Law Judge for a hearing. Except for SPS's filing of the Application, no other substantive pleadings or testimony have been filed. This motion is being filed within the Commission's default 45-day deadline for intervention under section 22.104(b) of the Commission's Procedural Rules. The motion is therefore timely.

11. Sierra Club's authorized representatives in this matter are:

Joshua Smith
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Email: joshua.smith@sierraclub.org

Matthew E. Miller
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12. Joshua Smith, Matthew Miller and Dru Spiller ask to be included on the service list in this proceeding.

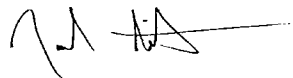
13. Sierra Club recognizes that Section 22.103(b) of the Commission's Procedural Rules requires associational intervenors to disclose the membership being represented through the intervention. Sierra Club has numerous members who are SPS

residential customers. To protect the privacy and associational freedom of its individual members, however, Sierra Club does not disclose its membership list in public proceedings unless specifically compelled to do so.

WHEREFORE, Sierra Club respectfully requests that the Commission grant its motion to intervene as a full party of record and allow it to participate fully in this docket, and to be furnished copies of all pleadings, orders, notices, discovery requests, responses (including documents produced in response to discovery requests), objections to discovery and other documents).

Dated this 8th day of October, 2021.

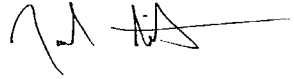
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joshua Smith', with a horizontal line extending to the right.

Joshua Smith
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CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing Sierra Club submission was served upon all parties of record in this proceeding on October 8, 2021, by electronic mail, as permitted by the presiding officer.

A handwritten signature in black ink, appearing to read 'Joshua Smith', written over a horizontal line.

Joshua Smith
Sierra Club Environmental Law Program