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**SOAH DOCKET NO. 473-24-11573
PUC DOCKET NO. 55849**

SOUTHWESTERN PUBLIC SERVICE	§	
COMPANY'S APPLICATION FOR	§	BEFORE THE STATE OFFICE
APPROVAL OF POWER PURCHASED	§	
AGREEMENTS PURSUANT TO	§	OF
PUBLIC UTILITY REGULATORY	§	
ACT § 36.205(e) AND FOR RELATED	§	ADMINISTRATIVE HEARINGS
RELIEF	§	

**SOUTHWESTERN PUBLIC SERVICE COMPANY'S
RESPONSE TO ALLIANCE OF XCEL MUNICIPALITIES'
SECOND REQUEST FOR INFORMATION
QUESTION NOS. 2-1 THROUGH 2-14
(Filename: SPSRespAXM2nd.docx; Total Pages: 34)**

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**SOUTHWESTERN PUBLIC SERVICE COMPANY'S
RESPONSE TO ALLIANCE OF XCEL MUNICIPALITIES'
SECOND REQUEST FOR INFORMATION
QUESTION NOS. 2-1 THROUGH 2-14**

Southwestern Public Service Company ("SPS") files this response to the Alliance of Xcel Municipalities' ("AXM's") Second Request for Information, Question Nos. 2-1 through 2-14. In accordance with the Commission's *Second Order Suspending Rules* entered in Project No. 50664, SPS has provided notice, by email, to all parties that SPS's Responses to AXM's Second Request for Information and accompanying exhibits (excluding voluminous and exhibits provided pursuant to the protective order) have been filed with the Commission and are available for download from the Commission's Interchange website.

I. WRITTEN RESPONSES

SPS's written responses to AXM's Second Request for Information are attached and incorporated by reference. Each response is stated on or attached to a separate page on which the request has been restated. SPS's responses are made in the spirit of cooperation without waiving SPS's right to contest the admissibility of any of these matters at hearing. In accordance with 16 Tex. Admin. Code § 22.144(c)(2)(A) ("TAC"), each response lists the preparer or person under whose direct supervision the response was prepared and any sponsoring witness. When SPS provides certain information sought by the request while objecting to the provision of other information, it does so without prejudice to its objection in the interests of narrowing discovery disputes under 16 TAC § 22.144(d)(5). Pursuant to 16 TAC § 22.144(c)(2)(F), SPS stipulates that its responses may be treated by all parties as if they were made under oath.

II. INSPECTIONS.

If responsive documents are more than 100 pages but less than eight linear feet in length, the response will indicate that the attachment is voluminous ("V") and will be provide by secured document transfer link.

If a response or the responsive documents are provided pursuant to the protective order in this docket, the response will indicate that it or the attachment is either confidential ("CONF") or highly sensitive protected material ("HSPM") as appropriate under the protective order. Confidential and highly sensitive materials will be served on all parties that have signed and filed the certification under the protective order entered in this docket. Confidential and highly sensitive responsive voluminous documents will be provided by secured document transfer link.

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ATTORNEYS FOR SOUTHWESTERN PUBLIC SERVICE COMPANY

RESPONSES

QUESTION NO. AXM 2-1:

Reference SPS's response to AXM 1-3, please provide the estimated number of years of life extension for Cunningham 2 that was expected to be provided by the life extension costs presented in SPS's response to AXM 1-3 and the date of the analysis.

RESPONSE:

The service extension is from 2025 to 2027. The analysis was performed in the first half of 2023.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-2:

Reference SPS's response to AXM 1-4, please provide the estimated number of years of life extension for Maddox 2 that was expected to be provided by the life extension costs presented in SPS's response to AXM 1-4 and the date of the analysis.

RESPONSE:

SPS's analysis as of July 26, 2023, estimated that the service-life-extension costs for Maddox Unit 2 would extend the service life from 2025 to at least 2028.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-3:

Please provide any analysis of the cumulative NPV of SPS's proposed Wildcat BESS PPA compared to an alternative scenario in which Encompass was allowed to choose the least cost alternative.

RESPONSE:

Please refer to Exhibit SPS-TIEC 1-11(HSPM), specifically the scenarios “PC_RFP 2023 TX” and “PC_RFP 2023 TX M2 Ext STCP” for alternative analyses

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-4:

Please provide SPS's current planned retirement dates for Cunningham 2 and Maddox 2 along with analysis supporting the planned retirement dates of the units.

RESPONSE:

Cunningham 2 is planned to retire at the end of 2026. Maddox 2 is planned to retire at the end of 2028. Please refer to SPS's responses to Question Nos. AXM 1-3, AXM 1-4, AXM 2-1, and AXM 2-2.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-5:

Reference SPS's response to AXM 1-6, please explain how SPS evaluates whether it is economically preferable to make investments necessary to continue operating existing generating units such as Cunningham 2 or retire and replace them with new resources if it has no estimates of the value of capacity provided by the existing unit.

RESPONSE:

Please Refer to SPS's Response to Question No. AXM 2-9.

Thermal resources become less reliable as they age, and in the case of Cunningham 2, the unit is many years past its initial retirement date. Long-term projections of the financial value of the accredited capacity from similarly-aged resources are unhelpful for two reasons: 1) there exists a real possibility that the resource may be in forced outage and not receive accredited capacity, and 2) contemplated changes to the Southwest Power Pool's capacity accreditation methodology would reduce the amount of accredited capacity awarded to resources that experienced forced outages.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-6:

Reference SPS's response to AXM 1-7, please explain how SPS evaluates whether it is economically preferable to enter into purchased power agreements such as the Wildcat BESS PPA or acquire other generating unit or PPA resources if it has no estimates of the value of capacity provided by the BESS PPA.

RESPONSE:

SPS relies upon its EnCompass production cost modeling software in concert with other factors to conduct analysis to evaluate the cost of alternative portfolio of resources needed to meet its capacity and energy needs. This analysis is conducted on a portfolio basis and not on a resource-by-resource basis.

Preparers: Justin Gable, Jon Landrum
Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-7:

Reference SPS's response to AXM 1-11, please provide underlying calculations and cost and operating assumptions supporting the referenced EIA and Lazard LCOE estimates for combustion turbine generating units.

RESPONSE:

Please refer to the EIA's page Assumptions to the Annual Energy Outlook (<https://www.eia.gov/outlooks/aeo/assumptions/>) for information and links to EIA's assumptions. Please refer to Lazard's Levelized Cost of Energy Analysis – Version 16.0 (<https://www.lazard.com/media/20zoovyg/lazards-lcoeplus-april-2023.pdf>) for Lazard's assumptions.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-8:

Reference SPS's response to AXM 1-16, please provide the status of SPS's regulatory proceedings in New Mexico regarding approval of the Wildcat BESS PPA along with the estimated final order date and any relevant orders issued to date.

RESPONSE:

The New Mexico case regarding the Wildcat BESS PPA was set for hearing on April 25, 2024. The parties reached a settlement, which SPS filed on May 1, 2024. Please refer to Exhibit SPS-AXM 2-8.1 and 2-8.2. The Hearing Examiner issued a Procedural Order for Stipulation Proceedings on April 29, 2024, which scheduled a one-day public hearing on the stipulation on May 23, 2024 and noted that the New Mexico Public Regulation Commission “will endeavor to decide the merits of the stipulation without delay.”

Preparers: Bobby Jones, Michael Knapp
Sponsor: Brooke A. Trammell

QUESTION NO. AXM 2-9:

Please provide the analysis supporting the decision to extend the service life of Cunningham 2 from 2025 to 2027 along with any analysis that was conducted to evaluate the feasibility of extending the service life of the unit beyond 2028.

RESPONSE:

Please refer to Exhibit AXM-SPS 1-3 for the cost estimates of the extension. Please refer to Page 28, lines 5–23 of the Direct Testimony of Ben R. Elsey for how that information was utilized. Please refer to Exhibit SPS-TIEC 1-13(HSPM) for the evaluation from EnCompass of the Recommended Portfolio. Analysis was not performed for a service life extension beyond 2028. By 2027, Cunningham Unit 2, which had an original expected service life of 40 years, would be over 62 years old. Any further extension of Cunningham Unit 2 would require substantial capital investment. Additionally, under SPS's current design parameters it would not be possible to continue to operate Cunningham Unit 2 after the new solar generation is installed in 2027.

Additionally, please refer to Pages 40-43 of the Direct Testimony of Mark Lytal in Docket No. 55255 for a description of how SPS decided to replace Cunningham Unit 2.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-10:

Please provide the analysis supporting the decision to extend the service life of Maddox 2 from 2025 to 2028 along with any analysis that was conducted to evaluate the feasibility of extending the service life of the unit beyond 2028.

RESPONSE:

Please refer to line 18, page 28 through line 6, page 30 of the Direct Testimony of Ben R. Elsey and Exhibit SPS-TIEC 1-13(HSPM).xlsb for the analysis supporting the decision to extend the service life of Maddox Unit 2. SPS has yet to perform additional analysis on the viability to extend the service life of Maddox Unit 2 beyond 2028. SPS intends to perform this analysis as part of its up-and-coming 2024 request for proposal. Please refer to the response to Question No. Staff 5-3 and Exhibit SPS-Staff 5-3 for additional information on the extension.

Preparers: Justin Gable, Jon Landrum
Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-11:

Please provide SPS's projected total system accredited capacity (MW) and PRM with and without the Wildcat BESS PPA.

RESPONSE:

Using the data in Table BRE-1 and Table BRE-3 of the Direct Testimony of Ben Elsey, the following is true for the proposed question. In 2027, SPS's projected total system accredited capacity without the Wildcat BESS PPA is 5,435 MW and the SPS's projected summer reserve margin is 14.8% MW. In 2027, SPS's projected total system accredited capacity with the Wildcat BESS PPA is 5,483 MW and the company's projected summer reserve margin is 15.8% MW.

Preparers: Justin Gable, Jon Landrum
Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-12:

Reference SPS's response to AXM 1-20, please provide documentation of the cost and availability information regarding short-term capacity purchases obtained from SPS's indicative discussions and broker quotes.

RESPONSE:

Please see the response to Question No. TIEC 6-3.

Preparer: Mark Breese, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-13:

Please explain why SPS has not solicited bids for short-term capacity purchases as a potential alternative to the Wildcat BESS PPA.

RESPONSE:

Please refer to page 21, line 19 to page 22, line 5 of the Direct Testimony of Ben R. Elsey.

Preparers: Justin Gable, Jon Landrum

Sponsor: Ben R. Elsey

QUESTION NO. AXM 2-14:

Please explain whether SPS has solicited bids for new gas-fired combustion turbine generating units located as an existing SPS generating station at a potential alternative to the Wildcat BESS PPA. If so, provide the bid terms, cost and analysis in comparison to the Wildcat BESS PPA. If not, please explain why not.

RESPONSE:

The 2022 All-Source RFP was a solicitation for all technology types and Option 1B was a specific request for generation replacement of Cunningham Unit 2 and Maddox Unit 2. No conforming bids for new gas-fired combustion turbine generating units were received for any option other than bid 18. Please see Exhibit SPS-TIEC 1-10(HSPM) for the submitted bid.

Preparers: Justin Gable, Jon Landrum
Sponsor: Ben R. Elsey

CERTIFICATE OF SERVICE

I certify that on the 13th day of May 2024, notice of the filing of the foregoing instrument with the PUCT was served on all parties of record by electronic service in this proceeding in accordance with the *Second Order Suspending Rules* issued in Project No. 50664.

A handwritten signature in cursive script, reading "Andrea Moore Stover", written in black ink.

Andrea Moore Stover

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF SOUTHWESTERN PUBLIC)
SERVICE COMPANY'S APPLICATION REQUESTING)
APPROVAL OF TWO LONG TERM PURCHASED POWER)
AGREEMENTS)**

) Case No. 23-00384-UT

**SOUTHWESTERN PUBLIC SERVICE COMPANY,)
)
APPLICANT.)**

PROCEDURAL ORDER FOR STIPULATION PROCEEDINGS

THIS MATTER comes before Christopher P. Ryan, Hearing Examiner for the New Mexico Public Regulation Commission, following the first day of the scheduled public hearing. The Hearing Examiner **FINDS** and **CONCLUDES** as follows.

1. The public hearing in this matter was scheduled for April 25 and 26, 2024. These dates were selected in consultation with the parties and formalized in the procedural order issued in January 2024.

2. On April 24, 2024, Southwestern Public Service Company (SPS) contacted the Hearing Examiner by phone and alerted him that the parties would, at the inception of the public hearing, request a short recess of the proceedings to further discuss a formal stipulation.

3. Hearing commenced as scheduled and, after taking appearances, SPS explained that it thought the parties were close to reaching a stipulation and requested an adjournment of the hearing for the morning to further discuss a stipulation.

4. Commission Staff informed the Hearing Examiner that it objected to the procedure and argued that time had long passed when SPS and the other parties should be discussing terms of settlement.

5. Counsel for the New Mexico Large Customer Group explained that settlement terms were under contemplation so late in the six-month-review period allowed by rule because there was delay between the filing of the application and the appointment of the Hearing Examiner and this necessitated setting the deadline for rebuttal testimony shortly before the scheduled hearing. In other words, all case events had to happen rapidly and rebuttal testimony necessarily had to be provided very close to the hearing date.

6. Staff responded that it would consider the settlement if ordered to do so by the Hearing Examiner.

7. The Hearing Examiner explained that it understood Staff's frustration and agreed that it is undesirable for settlement to come so late in the proceeding; nevertheless, he ordered Staff to participate in settlement negotiations given that this is a companion case to a larger procurement matter presently before the Commission, Case No. 23-00252-UT and presents related issues to the matters addressed there.

8. The public hearing was suspended for the morning and the parties agreed they would return at 1:00 p.m. and report whether a stipulation would be entered.

9. The parties returned at 1:00 p.m. and alerted the Hearing Examiner that all parties to the case had agreed to terms of a settlement and that a stipulation would be presented to the Hearing Examiner under 1.2.2.20 NMAC.

10. SPS reported that the Coalition for Clean and Affordable Energy (CCAEE) did not join the stipulation but also did not state any intention to oppose it.

11. The Hearing Examiner asked counsel for CCAEE how it intended to proceed, and counsel responded that CCAEE would need additional time to consider the settlement and its merits.

12. The parties actively participated in discussion about proposed dates for the procedural schedule on the stipulation proceedings.

13. The Hearing Examiner alerted SPS that consideration of the stipulation is predicated upon SPS's willingness to waive 17.9.551.10(B) NMAC which gives the Commission six months to review an application for long term purchased power agreements.

14. SPS informed the Hearing Examiner that it would waive that requirement for an additional thirty days.

15. The Hearing Examiner finds that it is necessary for the waiver to extend for as long as is necessary for the Commission to promptly adjudicate the stipulation. The Commission will endeavor to resolve the case as quickly as possible.

For these reasons, **IT IS ORDERED:**

A. The parties will supply the **stipulation** to the Commission and Hearing Examiner by filing it on E-Docket and will do that by the close of business on **May 1, 2024**.

B. **Opposition** to the stipulation (if any) will be filed by the close of business on **May 7, 2024**.

C. **Testimony in support of the stipulation** will be filed by the close of business on **May 10, 2024**. Any party who offered testimony in this case will supply additional testimony explaining why the settlement is a desirable outcome. To the extent a party intervened but did not supply testimony, counsel for the party shall offer a statement in the form of a pleading stating why they support the stipulation and why the Commission should do the same.

D. **Testimony in opposition** to the stipulation (if any) will be filed by the close of business on **May 16, 2024**.

E. Any **rebuttal** testimony will be filed by the close of business on **May 20, 2024**.

F. A one-day **public hearing** on the stipulation will occur on **May 23, 2024**.

G. The time requirements imposed on the Commission by 17.9.551.10(B) NMAC are waived to allow the Commission the time it requires to evaluate the merits of the stipulation. The Commission will endeavor to decide the merits of the stipulation without delay.

H. This order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this **29th** day of **April 2024**.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read "C. Ryan", is written over a horizontal line.

Christopher P. Ryan

Hearing Examiner

christopher.ryan@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)	
PUBLIC SERVICE COMPANY'S APPLICATION)	
REQUESTING APPROVAL OF TWO LONG)	
TERM PURCHASED POWER AGREEMENTS)	Case No. 23-00384-UT
)	
SOUTHWESTERN PUBLIC SERVICE)	
COMPANY, APPLICANT.)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the date indicated below I sent a true and correct copy of the order above to the parties listed below.

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DATED: April 29, 2024

NEW MEXICO PUBLIC REGULATION COMMISSION

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

Christopher P. Ryan

Hearing Examiner

christopher.ryan@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)	
PUBLIC SERVICE COMPANY'S)	
APPLICATION REQUESTING APPROVAL OF)	
TWO LONG TERM PURCHASED POWER)	
AGREEMENTS,)	
)	CASE NO. 23-00384-UT
SOUTHWESTERN PUBLIC SERVICE)	
COMPANY,)	
)	
APPLICANT.)	

COMPREHENSIVE STIPULATION

In accordance with 1.2.2.20(A) NMAC, Applicant, Southwestern Public Service Company ("SPS"); the Utility Division Staff ("Staff") of the New Mexico Public Regulation Commission ("Commission"); and Intervenors Occidental Permian Ltd. ("OPL"), Louisiana Energy Services, L.L.C. (d/b/a URENCO USA) ("LES"), and New Mexico Large Customer Group ("NMLCG") (collectively, "the Signatories")¹ enter into this Comprehensive Stipulation ("Stipulation") to resolve all issues presented in SPS's Application for approval of, *inter alia*, the following two long-term purchased power agreements ("LTPAs"):

1. A 15-year LTPPA with Borger Power Associates, LLC for 230 megawatts ("MW") of natural gas generation from the Borger Facility in Hutchison County, Texas ("Borger LTPPA"); and
2. A 15-year LTPPA with Wildcat Ranch Energy Storage, LLC ("Wildcat") for use of a 48 MW, four-hour battery energy storage system ("BESS") in Cochran County, Texas ("Wildcat BESS LTPPA").

¹ Intervenor Coalition for Clean Affordable Energy ("CCAIE") has not yet taken a position on this Stipulation.

Background

SPS seeks the approvals presented in the Application to obtain additional resources to serve its growing system capacity needs. As a result of increased load growth, the expected retirement of SPS generation units that have been operated beyond their original service lives, and expiring LTPPAs, SPS conducted an all-resource, competitive solicitation through a request for proposal (“2022 All-Source RFP”). The All-Source RFP results provided options from which SPS selected six projects and is effectuating limited extensions to two existing generation units’ lives to address SPS’s resource needs through 2027. Collectively, these six projects and the limited unit life extensions are referred to as SPS’s “Recommended Portfolio” from its 2022 All-Source RFP. Four of the six projects in the Recommended Portfolio are self-build projects, and SPS has requested approval of a certificate of public convenience and necessity (“CCN”) to authorize SPS to construct, own, and operate these resources. That application is currently pending before the Commission in Case No. 23-00252-UT.²

The remaining resources in SPS’s Recommended Portfolio are the two LTPPAs. As a result of SPS’s 2022 All-Source RFP, and in accordance with the New Mexico Public Utility Act (“PUA”)³ and New Mexico Administrative Code (“NMAC”) 17.9.551 (“Rule 551”), SPS applied to the Commission for a final order in this matter approving the Borger LTPPA and the Wildcat BESS LTPPA.

² *In the Matter of Southwestern Public Service Company’s Application Requesting: (1) Issuance of a Certificate of Public Convenience and Necessity to Construct and Operate Solar Generation and Battery Storage Projects and Associated Facilities; (2) Authorization of Related Ratemaking Principles Including Accrual of an Allowance for Funds Used During Construction; (3) Authorization to Abandon the Cunningham Unit 2 Generating Facility; and (4) Other Associated Relief*, Case No. 23-00252-UT (July 26, 2023) (Pending).

³ NMSA 1978, Sections 62-1-1 to -7, 62-2-1 to -22, 62-3-1 to -5, 62-6-4 to -28, 62-8-1 to -13, 62-9-1 to -7, 62-13-1 to -16.

Recitals

The Signatories acknowledge and affirm the following matters:

- A. On November 21, 2023, SPS filed an application requesting that the Commission grant the following relief:
- (1) authorize SPS to enter into the Borger and Wildcat BESS LTPPAs;
 - (2) authorize SPS to recover through its Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC") the New Mexico retail jurisdictional share of the variable operations and maintenance ("O&M") and energy costs under the Borger and Wildcat BESS LTPPAs;
 - (3) approve SPS's request to return 90% of the margins from off-system sales made from the Wildcat BESS to customers and to retain 10% of those margins; and
 - (4) grant to SPS all other approvals, authorizations, waivers, or variances that the Commission determines are necessary to implement and effectuate the other relief granted in this case.
- B. The Signatories enter into this Stipulation to resolve all issues related to SPS's Application.

Agreements

By this Stipulation, the Signatories agree to the following matters.

I. Stipulated Agreements Regarding SPS's Application

1.1 Approval of LTPPAs

The Signatories agree, or do not oppose, that the Borger and Wildcat BESS LTPPAs are just, reasonable, comply with the requirements of Rule 551 and the Public Utility Act, and should be approved.

1.2 Recovery of LTPPA Costs

The Signatories agree that SPS should be authorized to recover the New Mexico retail jurisdictional allocated share of energy costs associated with the LTPPAs through SPS's FPPCAC in accordance with Rule 550. The total energy cost for the LTPPAs will be

proportionally allocated among SPS's three jurisdictions (New Mexico retail, Texas retail, and wholesale).

The Signatories agree that SPS should be authorized to recover its variable O&M costs under the Borger LTPPA through SPS's FPPCAC, beginning when SPS's new base rates take effect following SPS's next base rate case. SPS agrees to withdraw its request to recover the incremental variable O&M costs incurred under the Borger LTPPA through SPS's FPPCAC until the level of variable O&M costs included in SPS's current base rates is removed.

The Signatories agree that SPS should be authorized to recover its variable O&M costs under the Wildcat BESS LTPPA through SPS's FPPCAC.

1.2 Retention of Off-System Sales Margins

SPS withdraws, without prejudice, its request to retain 10% off-system sales margins made from the Wildcat BESS LTPPA.

1.3 Remaining Relief

The Signatories agree not to oppose any remaining relief requested in SPS's Application.

II. Stipulated Agreements Regarding Miscellaneous Matters

2.1 Granting Waivers, Variances, and other Approvals

To the extent additional waivers, variances, or approvals are required to effectuate the Stipulation as approved by the Commission, the Signatories support the Commission granting of such waivers, variances, and approvals.

2.2 Admission of Pre-Filed Testimony and Other Filings into Record

The Signatories support the admission into the case record of SPS's pre-filed direct and rebuttal testimony and attachments, the direct testimony and attachments submitted by Staff and the intervenors, and SPS's and the other parties' testimony filed in support of the Stipulation.

2.3 Effect and Limitation of Stipulation

(a) This Stipulation has been drafted by all the Signatories and is the result of negotiation, compromise, settlement, and accommodation among the Signatories with respect to the issues set out in this Stipulation. The Stipulation resolves all issues concerning SPS's Application in this case. The Signatories agree the Stipulation represents a fair, just, and reasonable resolution of all issues related to SPS's Application. The Signatories agree that the Stipulation is in the public interest and should be approved and accepted by the Commission.

(b) The Signatories further agree that the terms and conditions set out in this Stipulation are interdependent and that the various provisions of this Stipulation are not severable. None of the provisions of this Stipulation shall become operative unless the Commission enters an order approving the entire Stipulation. If the Commission issues an order inconsistent with the terms of this Stipulation, each Signatory has the right to withdraw from this Stipulation, to take action to protect its interest(s), and to advocate any position it deems appropriate with respect to any issue in this Stipulation.

(c) This Stipulation is binding on each of the Signatories only for the purpose of settling the issues as set forth in this Stipulation and for no other purposes, and, except as agreed to herein, this Stipulation shall not be binding or precedential on a Signatory outside of this proceeding. It is acknowledged that a Signatory's support of the matters contained in this Stipulation may differ from the position taken or testimony presented by it in other cases before the Commission. To the extent that there is a difference, a Signatory does not waive its position in any of those other cases. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Stipulation in other cases, regardless of whether other cases present the same or a different set of circumstances, except as otherwise may

be explicitly provided by this Stipulation. The provisions of this Stipulation are intended to relate to only the specific matters referred to in this Stipulation. By agreeing to this Stipulation, no Signatory waives any claim it may otherwise have with respect to issues not expressly provided for in this Stipulation.

(d) This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Signatories.

2.4 Multiple Counterparts

The Stipulation may be executed in any number of counterparts, including by telephonic or electronic means or telefax or PDF signature, each of which shall separately be deemed to be an original, and all of which will constitute one and the same agreement.

The following fully and duly authorized representatives of the Signatories have signed this Stipulation as of May 1, 2024.

<u>/s/ Dana S. Hardy</u> Dana S. Hardy, Esq. Timothy B. Rode, Esq. HINKLE SHANOR LLP Post Office Box 2068 Santa Fe, NM 87504-2068 Phone: (505) 982-4554 Facsimile: (505) 982-8623 dhardy@hinklelawfirm.com trode@hinklelawfirm.com ATTORNEYS FOR SOUTHWESTERN PUBLIC SERVICE COMPANY	<u>/s/ John Bogatko</u> John Bogatko NMPRC Legal Division P.O. Box 1269 Santa Fe, New Mexico 87504 (505) 500-6264 John.Bogatko@prc.nm.gov STAFF COUNSEL FOR NMPRC UTILITY DIVISION
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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN
PUBLIC SERVICE COMPANY'S
APPLICATION REQUESTING APPROVAL
OF TWO LONG TERM PURCHASED
POWER AGREEMENTS,
SOUTHWESTERN PUBLIC SERVICE COMPANY,

CASE NO. 23-00384-UT

APPLICANT.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Comprehensive Stipulation* was electronically filed, and sent to each of the following via email only, on this 1st day of May, 2024:

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Respectfully submitted,

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