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DOCKET NO. 58017

**APPLICATION OF
SOUTHWESTERN PUBLIC
SERVICE COMPANY TO ADJUST
ITS ENERGY EFFICIENCY COST
RECOVERY FACTOR** §
 § **PUBLIC UTILITY COMMISSION**
 §
 § **OF TEXAS**
 §

**DIRECT TESTIMONY
of
KYLE G. INGHAM**

on behalf of

SOUTHWESTERN PUBLIC SERVICE COMPANY

(Filename: InghamEECRFDirect.docx, Total Pages: 31)

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GLOSSARY OF ACRONYMS AND DEFINED TERMS

<u>Acronym/Defined Term</u>	<u>Meaning</u>
Commission	Public Utility Commission of Texas
EECRF	Energy Efficiency Cost Recovery Factor
PRPC	Panhandle Regional Planning Commission
PURA	Public Utility Regulatory Act
PY	Program Year
RCE	Rate Case Expense
SPS	Southwestern Public Service Company, a New Mexico corporation
Staff	Staff of the Public Utility Commission of Texas
TAC	Texas Administrative Code
TIEC	Texas Industrial Energy Consumers
WBK	Wilkinson, Barker, Knauer, LLP
Xcel Energy	Xcel Energy Inc.
XES	Xcel Energy Services Inc.

LIST OF ATTACHMENTS

<u>Attachment</u>	<u>Description</u>
KGI-1	Summary of Rate Case Expenses and Adjustments from Docket No. 56570 (<i>Filename: KGI-1.xlsx</i>)
KGI-2	Rate Case Expenses from Docket No. 56570 Allocated by Phase (<i>Filename: KGI-2.xlsx</i>)
KGI-3	Affidavit of Leila Melhem (<i>Filename: KGI-3.pdf</i>)
KGI-4(WP)	Workpapers (<i>Filename: KGI-4.xlsx</i>)

**DIRECT TESTIMONY
OF
KYLE G. INGHAM**

I. WITNESS IDENTIFICATION AND QUALIFICATIONS

1 **Q. Please state your name and business address.**

2 A. My name is Kyle G. Ingham. My business address is 790 S. Buchanan, Amarillo,
3 Texas 79101.

4 **Q. On whose behalf are you testifying in this proceeding?**

5 A. I am filing testimony on behalf of Southwestern Public Service Company (“SPS”),
6 a New Mexico corporation and wholly-owned electric utility subsidiary of Xcel
7 Energy Inc. (“Xcel Energy”).

8 **Q. By whom are you employed and in what position?**

9 A. I am employed by SPS as Regulatory Policy Specialist.

10 **Q. Please briefly outline your responsibilities as Regulatory Policy Specialist.**

11 A. I am responsible for the development, filing, and processing of regulatory and
12 policy filings for SPS. I am a member of a team focused on the development of
13 policy issues and advocacy to be included in regulatory filings, and I facilitate the
14 overall preparation of filed testimony, attachments, schedules, and workpapers to
15 produce filings in accordance with applicable rules and procedures in the regulatory
16 jurisdictions in which SPS operates.

17 **Q. Please describe your educational background.**

18 A. I graduated from West Texas A&M with a Bachelor’s of Arts degree in General
19 Business in 2001 and again in 2008 with a Master’s of Political Science degree. I

1 also received a Certified Public Manager's certificate through Texas Tech
2 University in December of 2011.

3 **Q. Please describe your professional experience.**

4 A. I began my career as a Program Specialist at the Panhandle Regional Planning
5 Commission ("PRPC") in 2001. I became the Local Government Services Director
6 at PRPC in 2008 and was promoted to Executive Director of that organization in
7 2017 with the oversight and management responsibility of over 40 employees and
8 over \$30 million in annual budget largely funded through state and federal grant
9 programs. In June 2022, I moved to the private sector and joined SPS in my current
10 position as Regulatory Policy Specialist.

II. SUMMARY AND RECOMMENDATIONS

1 **Q. What is the scope of your testimony in this proceeding?**

2 A. The purpose of my testimony is to outline and support the prudence of SPS's rate-
3 case expenses ("RCEs") incurred during the preparation, prosecution, and
4 settlement of Docket No. 56570, SPS's 2024 Energy Efficiency Cost Recovery
5 Factor ("EECRF") application. Specifically, my testimony:

- 6 • describes the nature and scope of SPS's filing in Docket No. 56570;
- 7 • describes the basis for the RCEs addressed in this docket; and
- 8 • supports the reasonableness of the RCEs being reviewed.

9 **Q. Please describe your experience as it relates to the review and recovery of**
10 **RCEs.**

11 A. In my current position, I am familiar with the nature of expenses incurred by SPS
12 and Xcel Energy Services Inc. ("XES") personnel in docketed proceedings before
13 state regulatory commissions. I also have regular contact with persons primarily
14 responsible for reviewing the reasonableness and necessity of the invoices
15 submitted to SPS by Texas municipalities maintaining original rate jurisdiction in
16 association with ratemaking proceedings before the Public Utility Commission of
17 Texas ("Commission"), including base-rate cases, fuel reconciliations, EECRF
18 filings, and Commission Consulting Fee Rider recovery dockets. Through my role
19 managing base-rate case and resource approval filings, I also have familiarity with
20 the prevailing hourly rates associated with individuals and the firms that provide
21 legal services in connection with regulatory proceedings before the Commission. I
22 am also familiar with the range of services provided by outside attorneys in

1 connection with such cases, as well as the amount of time and effort expended in
2 performing such engagements.

3 **Q. What amount of RCEs was incurred by SPS in Docket No. 56570?**

4 A. SPS incurred a total of \$39,667.02¹ in RCEs in Docket No. 56570, as shown in
5 Attachment KGI-1, page 1. Of that total, \$39,578.95² was for outside legal
6 expenses and consultant fees. The remaining \$88.07³ in RCEs was for internal
7 processing service fees associated with the filing and case management of Docket
8 No. 56570.

9 **Q. Did SPS make any adjustments to the RCEs?**

10 A. Yes, SPS included a downward adjustment of \$730.10⁴ to remove four billings
11 from the fourth invoice (11/24) from Wilkinson, Barker, Knauer, LLP (“WBK”)
12 for legal services. Specifically, the following entries were removed from the
13 invoice as the billings were for services unrelated to the Docket No. 56570:

- 14 • Entry #6 – Review update to A. Johnson Direct - \$68.11;⁵
- 15 • Entry #14 – Review and Revise C. Meeks Testimony - \$204.34;⁶
- 16 • Entry #15 – Review and revise A. Johnson Direct Testimony - \$204.34;⁷
- 17 and
- 18 • Entry #43 – Review and draft responses to AXM discovery - \$253.31.⁸

19 Please see Attachment KGI-4 for the strikethrough of the four entries.

¹ Attachment KGI-1, line 35.

² *Id.* line 7.

³ *Id.* line 25.

⁴ Attachment KGI-4, tab “Report”.

⁵ *Id.* Item 6.

⁶ *Id.* Item 14.

⁷ *Id.* Item 15.

⁸ *Id.* Item 43.

1 **Q. What is the basis for your testimony on this topic?**

2 A. Subsection (c) of 16 Tex. Admin. Code (“TAC”) § 25.245 sets forth criteria for the
3 review and determination of the reasonableness of RCEs. My testimony addresses
4 the criteria as applied to SPS’s EECRF-related RCEs incurred in Docket No. 56570.

5 **Q. Does your testimony demonstrate the reasonableness of SPS’s EECRF RCEs**
6 **under 16 TAC § 25.245?**

7 A. Yes, as I discuss further below.

8 **Q. How do you present the RCEs?**

9 A. Attachment KGI-1, page 1 provides a summary of the RCEs incurred in Docket
10 No. 56570 and requested by SPS in this proceeding. The summary provided on
11 page 1 breaks down the RCEs between outside legal costs and internal employee
12 costs by invoice. Attachment KGI-2 provides an allocation of requested RCEs to
13 the phases in Docket No. 56570.

14 **Q. You state that Attachment KGI-2 presents SPS’s requested RCEs by phase.**
15 **Please explain how this allocation was performed.**

16 A. In order to comply with 16 TAC § 24.245(b)(6), SPS has allocated the RCEs to
17 phases rather than to issues. For Docket No. 56570, those phases are the policy,
18 program, cost allocation, and rate design phases. Additionally, the expenses were
19 divided into three groups. The first group is expenses that could be directly
20 assigned to a phase. Attachment KGI-2, lines 1-6 presents these expenses.

21 The second group includes expenses that relate to or are intertwined with
22 all three phases and, thus, are not capable of being directly allocated to a specific
23 phase. These amounts include work on testimony, discovery, and settlement

1 activities. No practical way exists to assign these expenses to a single phase. For
2 example, with respect to discovery, it would be impractical for an attorney
3 reviewing a set of discovery questions that covers topics spanning multiple phases
4 to spend time recording 0.1-hour increments to particular phases for every single
5 question. Consequently, an allocation factor was developed for each of these
6 expense categories. These expenses are presented in Attachment KGI-2, lines 7-
7 13 of tab "Assigned to Phases."

8 Finally, there were some costs that could not be directly assigned or
9 allocated to a particular phase. These expenses relate to general matters, such as
10 preparing the EECRF application, pre-filing meetings, procedural matters, and the
11 settlement work. For these costs, an allocator was developed based on the
12 allocation of the directly assigned and allocated costs by phase to the total costs.
13 These expenses are presented in Attachment KGI-2, lines 14-20 of tab "Assigned
14 to Phases."

15 **Q. Were Attachments KGI-1, KGI-2, and KGI-4 prepared by you or under your**
16 **supervision?**

17 A. Yes.

18 **Q. Please explain Attachment KGI-3.**

19 A. Attachment KGI-3 is an affidavit of Leila Melhem, Assistant General Counsel for
20 Xcel Energy Services Inc., attesting to the reasonableness of RCEs from outside
21 legal counsel in Docket No. 56570.

III. BACKGROUND OF SPS'S 2024 EECRF FILING IN DOCKET NO. 56570

Q. When did SPS make its EECRF filing in Docket No. 56570?

A. SPS filed an application to adjust its EECRF on May 1, 2024. In conformity with 16 TAC § 25.182(d)(10), SPS's filing included testimony and schedules, in Excel format with formulas intact, as well as the required categories of information under 16 TAC § 25.181, as applicable. SPS witness Jeremy M. Lovelady submitted direct testimony on behalf of SPS regarding RCEs in Docket No. 56570,⁹ and SPS filed the direct testimony of three other witnesses.

Q. What relief did SPS request in that application?

A. SPS sought similar relief as it seeks in this current application for Program Year ("PY") 2026, but for PY 2025. In particular, SPS sought findings from the Commission that were for PY 2025:

- (1) the programs proposed by SPS were cost-effective;
- (2) the performance bonus earned in 2023 satisfied the requirements of 16 TAC § 25.182(e);
- (3) the affiliate costs were reasonable as set forth under PURA¹⁰ § 36.058;
- (4) the administrative and research and development expenses were lower than the caps set forth in 16 TAC § 25.181(g);
- (5) the incentives forecasted to be paid were lower than the cap in 16 TAC § 25.181(f);
- (6) as a result of the plan, SPS would be expected to achieve the required demand and energy savings reductions;
- (7) the RCEs incurred by SPS in its 2024 EECRF proceeding (Docket No. 54949) were reasonable and necessary; and

⁹ *Application of Southwestern Public Service Company to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 56570 Testimony of Jeremy Lovelady (May 1, 2024).

¹⁰ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 ("PURA").

1 (8) an EECRF rider could be implemented to recover the program and
2 administrative costs.

3 **Q. Did any parties intervene in Docket No. 56570?**

4 A. Yes, Texas Industrial Energy Consumers (“TIEC”) intervened. Commission Staff
5 (“Staff”) also participated.

6 **A. Novelty and Complexity of the Issues Addressed**

7 **Q. Did Docket No. 56570 present any new or complex issues, compared to prior**
8 **SPS EECRF proceedings?**

9 A. No. All issues presented in Docket No. 56570 had been addressed in prior SPS
10 EECRF proceedings or were routine requests for relief that had been approved in
11 previous SPS EECRF proceedings.

12 **Q. In Docket No. 56570, were issues raised that ultimately required rebuttal**
13 **testimony and litigation?**

14 A. No. No hearing was requested by any party, and SPS submitted its Proposed Order
15 on July 2, 2024.

16 **B. Discovery**

17 **Q. Did SPS receive discovery from any party in Docket No. 56570?**

18 A. Yes. SPS received two sets of discovery from Staff.

19 **Q. When did the Commission issue a Final Order in Docket No. 56570?**

20 A. The Commission issued a Final Order approving the application as filed on October
21 24, 2024.

1 **C. Breakdown of RCEs Incurred in Docket No. 56570**

2 **Q. Is SPS seeking to recover all of its RCEs associated with Docket No. 56570 in**
3 **this proceeding?**

4 A. Yes. As discussed below, the \$39,667.02¹¹ of RCEs incurred by SPS in Docket
5 No. 56570 were reasonable and necessary and, therefore, should be recovered.

6 **Q. What types of RCEs did SPS incur for Docket No. 56570?**

7 A. As I detailed above, of the \$39,667.02¹² of RCEs incurred by SPS in Docket
8 No. 56570, \$39,578.95¹³ was for outside legal counsel professional fees. SPS also
9 incurred \$88.07¹⁴ in fees for Employee Expenses and internal processing service
10 fees associated with filing and settlement of Docket No. 56570.

11 **Q. In addition to the \$39,667.02 of RCEs incurred by SPS in Docket No. 56570,**
12 **did SPS incur any expenses from municipalities?**

13 A. No.

14 **1. Outside Legal Counsel and Consultant RCEs**

15 **Q. What attorneys did SPS retain to assist with Docket No. 56570?**

16 A. SPS retained WBK to assist with the preparation and prosecution of Docket No.
17 56570. Specifically, WBK attorneys Marty Hopkins, Katie Otterbeck, and Will
18 DuBois performed and billed for legal services.

19 **Q. What types of work did the WBK attorneys perform on behalf of SPS in**
20 **Docket No. 56570?**

¹¹ Attachment KGI-1, line 35.

¹² *Id.*

¹³ *Id.* line 7.

¹⁴ *Id.*, line 25.

1 A. The WBK attorneys' work during Docket No. 56570 was at the direction of and in
2 coordination with XES personnel. In particular, the WBK attorneys performed a
3 variety of tasks during the preparation and prosecution of Docket No. 56570,
4 including:

- 5 • drafting the application;
- 6 • assisting witnesses with the preparation of their direct testimonies,
7 attachments, and workpapers;
- 8 • assisting SPS regulatory staff with the preparation of RCE supporting
9 materials;
- 10 • assisting witnesses and SPS regulatory staff in preparing discovery
11 responses; and
- 12 • participating in settlement negotiations and drafting the resulting
13 Proposed Order.

14 **Q. Did SPS agree to pay the WBK attorneys' hourly rates for the work they did**
15 **on the case?**

16 A. Yes. WBK's hourly fees were negotiated based upon the scope of the engagement
17 and the customary fees for regulatory attorneys retained by SPS.

18 **Q. Was it reasonable and necessary for SPS to retain WBK to represent it in**
19 **Docket No. 56570?**

20 A. Yes. While SPS had in-house counsel that provided substantial assistance, in-house
21 counsel was also responsible for a number of other legal and regulatory matters
22 regarding SPS's operations in both Texas and New Mexico. Given these other
23 responsibilities and workload, SPS internal counsel would not have been able to
24 adequately prepare and prosecute Docket No. 56570 without assistance from
25 outside counsel.

1 **Q. Are the internal processing fees requested in this docket related only to SPS's**
2 **2024 EECRF?**

3 A. Yes. Expenses related to prosecuting SPS's EECRF are booked to a unique Internal
4 Order (similar to a sub-ledger). The internal processing fees are only applied for
5 those invoices booked to the unique Internal Order meaning that the internal
6 processing fees are unique to SPS's 2024 EECRF.

7 **Q. Are internal processing service fees necessary EECRF-related expenses?**

8 A. Yes. As previously mentioned, while SPS had in-house counsel in Docket
9 No. 56570 that provided substantial assistance, SPS in-house counsel was also
10 responsible for a number of other legal and regulatory matters regarding SPS's
11 operations in both Texas and New Mexico. Given these other responsibilities and
12 work load, SPS would not have been able to adequately prepare and prosecute
13 Docket No. 56570 without assistance from outside counsel. The internal processing
14 fees incurred for Docket No. 56570 were simply small charges related to processing
15 the invoices for these necessary outside services and therefore should be considered
16 reasonable.

IV. REVIEW OF RCES INCURRED IN DOCKET NO. 56570

1 **Q. What do you discuss in this section of your testimony?**

2 A. In this section of my testimony, I discuss the review process I utilized to determine
3 if adjustments were necessary and the supporting documents I provide in my
4 workpapers, which are attached to this testimony as Attachment KGI-4(WP).

5 **Q. What process did SPS use to review the Docket No. 56570 RCES before**
6 **requesting recovery?**

7 A. First, a separate Internal Order is maintained for work on SPS's EECRF
8 proceedings. Within that specified Internal Order, the RCES booked are coded so
9 as to be discernable as RCES. Furthermore, no costs booked to that specified
10 Internal Order are recovered outside of the EECRF.

11 Next, SPS reviewed each expense identified as an RCE from the Internal
12 Order based on the entry and the receipt/invoice to determine if it was appropriately
13 charged to the Internal Order and if it was a recoverable expense.

14 Next, the expenses were grouped according to the month they were booked,
15 and were detailed on a spreadsheet, provided as a workpaper in Attachment KGI-
16 4(WP), which identifies the reason for the expense, the amount of the expense, and
17 the individual that incurred the expense. Finally, SPS personnel grouped all
18 receipts and invoices by month, then by category of expense, and finally by who
19 incurred the expense. These receipts and invoices are also included as part of my
20 workpapers in Attachment KGI-4(WP).

1 **Q. During the review process, did SPS identify any expenses that should be**
2 **adjusted out of the requested recovery?**

3 A. Yes. SPS removed four line items for outside legal expenses that were
4 inadvertently booked to the EECRF totaling \$730.10.¹⁶ SPS's only expenses
5 outside of legal professional fees were the noted \$88.07¹⁷ of internal processing
6 fees. Furthermore, I have reviewed SPS's outside legal costs and no attorney
7 worked in excess of 12 hours per day. I have provided a schedule of attorney hours
8 worked as part of my workpapers.

9 **Q. Can you attest to the reasonableness and necessity of the incurrence of each**
10 **and every RCE that SPS incurred for this docket?**

11 A. Yes. I have reviewed each and every RCE item that SPS incurred for this docket
12 and the incurrence of each and every one of those expenses was reasonable and
13 necessary.

¹⁶ Attachment KGI-4.

¹⁷ Attachment KGI-1, line 25.

V. REASONABLENESS OF SPS'S 2024 EECRF RCES

1 **Q. Has SPS provided sufficient information and documentation that details all of**
2 **its requested RCES?**

3 A. Yes. As described above, I have attached the invoices, expense account
4 information, and other supporting documentation to support the necessity and
5 reasonableness of the RCES incurred by SPS in Docket No. 56570. In sum, SPS
6 has provided adequate documentation, in the same form and level as that provided
7 by SPS in past EECRF proceedings and other RCE recovery dockets.

8 **Q. Were the tasks performed or time spent on a task by the WBK attorneys**
9 **extreme or excessive?**

10 A. No. Based on my experience, the types and amount of work performed by the
11 WBK attorneys is consistent with that performed in past cases and was reasonable
12 and justified given the nature of the EECRF proceeding.

13 **Q. Were the hourly fees charged by and paid to WBK extreme or excessive?**

14 A. No. In my opinion, the WBK attorneys' hourly rates are reasonable. Based on my
15 experience and review of the underlying documentation, the hourly rates charged
16 are: (1) commensurate with the WBK attorneys' experience and the types of cases
17 upon which each professional has worked; and (2) consistent with prevailing hourly
18 rates for utility lawyers practicing before the Commission.

19 **Q. Was the WBK attorneys' work duplicative of the work SPS in-house counsel**
20 **performed?**

21 A. No. SPS manages the work of its outside counsel to avoid duplication of effort.
22 For example, specific witnesses were assigned to specific attorneys and outside

1 attorneys generally provided legal assistance for issues specific to their assigned
2 witnesses. As a result, duplication of work was generally avoided through the
3 initial assignment of specific witnesses to specific attorneys.

4 Further, drafting of the unopposed stipulation, proposed order, and
5 associated motions was performed by Ms. Marty Hopkins, with SPS in-house
6 counsel reviewing, editing, and providing input for finalization purposes.

7 **Q. Are the requested RCEs as a whole disproportionate, excessive, or**
8 **unwarranted in relation to the nature and scope of Docket No. 56570?**

9 A. No. The requested RCEs are not disproportionate, excessive, or unwarranted for
10 an EECRF proceeding based upon my experience in similar matters before the
11 Commission.

12 **Q. Did SPS propose anything in Docket No. 56570 that had no basis in law, policy,**
13 **or fact and was not warranted by any reasonable argument for the extension,**
14 **modification, or reversal of Commission precedent?**

15 A. No. As noted above, SPS raised no new or unprecedented issues in Docket No.
16 56570.

17 **Q. Are the RCEs that SPS is seeking recovery for its 2024 EECRF proceeding**
18 **reasonable and necessary?**

19 A. Yes. I have considered the factors included in 16 TAC § 25.245 in reviewing the
20 RCEs that SPS incurred in its 2024 EECRF proceeding. Based on my experience
21 in regulatory matters, I conclude that the RCEs incurred in SPS's 2024 EECRF
22 proceeding are reasonable and necessary considering the complexity of the case,
23 the number of issues addressed, the amount of money involved, the responsibilities

1 assigned to outside lawyers, and the benefits derived by SPS from the participation
2 of these individuals.

3 **Q. Have the RCEs that SPS is seeking recovery for its 2024 EECRF proceeding**
4 **been reviewed by a licensed attorney?**

5 A. Yes. Leila Melhem has reviewed the underlying support for and assessed the
6 reasonableness of the requested RCEs for Docket No. 56570. As explained in her
7 affidavit, included as Attachment KGI-3 to this testimony, Ms. Melhem, based on
8 her experience and consideration of the relevant Commission-established standards
9 for review of RCEs, concludes that:

- 10 • SPS submitted documentation supporting its requested RCEs for
11 Docket No. 56570 in the same form and level as that provided by SPS
12 in past EECRF proceedings and other rate-case expense recovery
13 dockets;
- 14 • the WBK attorneys' hourly rates are: (1) reasonable; (2)
15 commensurate with the WBK attorneys' experience and the types of
16 cases upon which each professional has worked; and (3) consistent
17 with prevailing hourly rates for utility lawyers practicing before the
18 Commission;
- 19 • the rates charged by WBK to SPS for Docket No. 56570 were the same
20 hourly rates the law firm charged to SPS for other matters;
- 21 • the types and amount of work performed by the WBK attorneys was
22 consistent with that performed in past cases and was reasonable and
23 justified given the nature of the EECRF proceeding;
- 24 • the \$39,667.02¹⁸ in RCEs incurred by SPS in Docket No. 56570 were
25 reasonable and necessary considering the complexity of the case, the
26 number of issues addressed, the amount of money involved, the
27 responsibilities assigned to outside lawyers and consultants, and the
28 benefits derived by SPS from the participation of these individuals.

¹⁸ *Id.*, line 35.

1 **Q. In conclusion, what do you recommend regarding SPS's EECRF request in**
2 **this proceeding?**

3 A. Based on information provided in my testimony, I recommend the Commission
4 find the RCEs incurred by SPS in its 2024 EECRF proceeding (Docket No. 56570)
5 were reasonable and necessary.

6 **Q. Does this conclude your pre-filed direct testimony?**

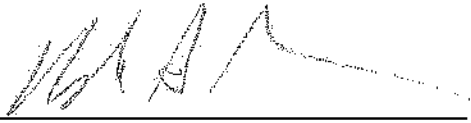
7 A. Yes.

AFFIDAVIT

STATE OF TEXAS)
)
COUNTY OF POTTER)

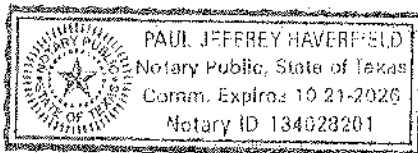
KYLE G. INGHAM, first being sworn on his oath, states:

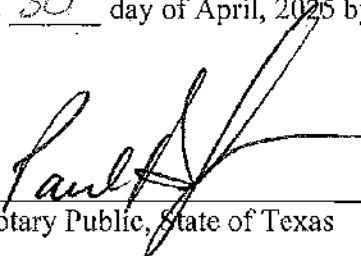
I am the witness identified in the preceding prepared direct testimony. I have read the testimony and the accompanying attachments and am familiar with their contents. Based upon my personal knowledge, the facts stated in the testimony are true. In addition, in my judgment and based upon my professional experience, the opinions and conclusions stated in the testimony are true, valid, and accurate.



Kyle G. Ingham

Subscribed and sworn to before me this 30 day of April, 2025 by KYLE G. INGHAM





Notary Public, State of Texas

My Commission Expires: 10-21-2026

CERTIFICATE OF SERVICE

I certify that on May 1, 2025, this instrument was filed with the Public Utility Commission of Texas, and a true and correct copy of it was served on the Staff of the Public Utility Commission of Texas, all parties who participated in SPS's most recently completed EECRF proceeding, Docket No. 56570; SPS's most recently completed base-rate proceeding, Docket No. 54634; and to the state agency that administers the federal weatherization program, which is the Texas Department of Housing and Community Affairs by electronic mail.

/s/ Dee Hooley

**APPLICATION OF SOUTHWESTERN
PUBLIC SERVICE COMPANY TO
ADJUST ITS ENERGY EFFICIENCY
COST RECOVERY FACTOR**

§
§
§
§

**PUBLIC UTILITY COMMISSION

OF TEXAS**

AFFIDAVIT OF LEILA MELHEM

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Leila Melhem, who being by me first duly sworn, on oath, deposed and said the following:

My name is Leila Melhem. I am over the age of twenty-one years, am of sound mind, have personal knowledge of the statements made herein, and the facts are true and correct to the best of my knowledge and belief. I am competent to make this Affidavit.

1. I am employed by Xcel Energy Services ("XES"), a subsidiary of Xcel Energy Inc. ("Xcel Energy"), as Assistant General Counsel. In that capacity I serve as counsel to Xcel Energy subsidiary Southwestern Public Service Company ("SPS"). I have practiced law since 2012, including many cases before the Public Utility Commission of Texas ("Commission").
2. I have represented SPS and other investor-owned utilities in Texas on a number of matters. Such matters include energy efficiency cost recovery factor ("EECRF") proceedings, base-rate cases, fuel-reconciliation proceedings, sale/transfer/merger dockets, and various tariff-related matters.
3. As Assistant General Counsel, I am responsible for reviewing and approving invoices from outside law firms and consultants regarding SPS matters.
4. Through my current role and through prior positions, I have become familiar with the rates of a broad range of lawyers, both those at small and large firms and solo practitioners, including the rates charged by such attorneys for work on matters before the Commission.

5. In the 2024 *Application of Southwestern Public Service Company to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 56570, SPS was represented by outside counsel with the law firm of Wilkinson, Barker, Knauer, LLP (“WBK”). WBK has extensive experience in Texas regulatory matters generally. Specifically, WBK attorneys Marty Hopkins and Katie Otterbeck performed and billed for legal services in Docket No. 56570, with Will DuBois providing occasional support.
6. Marty Hopkins was the primary WBK attorney representing SPS in its 2024 EECRF filing in Docket No. 56570. Ms. Hopkins has been a licensed Texas attorney since 2007, representing utility clients in various matters before the Commission and Texas courts for nearly two decades. Moreover, SPS is not the only client she represents before the Commission. Ms. Hopkins is therefore knowledgeable of and skilled in Commission practices and procedures.
7. The WBK attorneys’ work during Docket No. 56570 was at the direction and in coordination with internal Xcel Energy and SPS personnel. In particular, the WBK attorneys performed a variety of tasks during the preparation and prosecution of Docket No. 56570, including:
 - a) assisting SPS with the preparation of the annual Energy Efficiency Plan and Report (“EEPR”);
 - b) drafting the application;
 - c) assisting witnesses with the preparation of their direct testimonies, attachments, and workpapers;
 - d) assisting SPS regulatory staff with the preparation of rate-case expense supporting materials;
 - e) assisting witnesses and SPS regulatory staff in preparing discovery responses; and
 - f) participating in settlement negotiations and drafting the resulting stipulation and proposed order.
8. WBK’s hourly fees were negotiated based upon the scope of the engagement and are within the range of fees charged by regulatory attorneys retained by SPS. The invoices to SPS from WBK for work in Docket No. 56570, which total \$39,578.95, were included

in the workpapers provided as Attachment KGI-4 to the Direct Testimony of Kyle G. Ingham filed in this matter on May 1, 2025.

9. WBK's invoices provide detail of what task was being addressed for the time billed, and therefore, indicate the time billed for any specific issue or issues in last year's proceeding, which would also indicate the amount of rate-case expenses reasonably associated with each issue. I have personally reviewed the invoices on behalf of SPS.
10. SPS incurred a total of total of \$39,667.02 in rate-case expenses in Docket No. 56570, as shown in Attachment KGI-1 to Mr. Ingham's direct testimony. As noted above, \$39,578.95 of that total was for outside legal expenses. The remaining \$88.07 in rate-case expenses included fees for internal processing service fees associated with filing and case management of Docket No. 56570, all of which is presented in Attachment KGI-2 to Mr. Ingham's direct testimony. The invoices and receipts associated with SPS's costs are provided in the workpapers provided as Attachment KGI-4 to Mr. Ingham's direct testimony.
11. SPS has submitted documentation supporting its requested rate-case expenses for Docket No. 56570 in the same form and level as that provided by SPS in past EECRF proceedings and other rate-case expense recovery dockets.
12. I personally reviewed the above-referenced invoices on behalf of SPS taking into consideration the eight factors listed in Rule 1.04(b) of the Texas Disciplinary Rules of Professional Conduct:
 - a) the time and labor required, novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;
 - b) the likelihood that acceptance of employment will preclude other employment by the attorney;
 - c) the fee customarily charged in the locality for similar legal services.
 - d) the amount of time involved and result achieved;
 - e) time limitation imposed by the client or by the circumstances;
 - f) the nature and length of the professional relationship with the client;
 - g) the experience, reputation and ability of the lawyers performing the services; and
 - h) whether the fee is fixed or contingent on results or uncertainty of collection

before the legal services have been rendered.

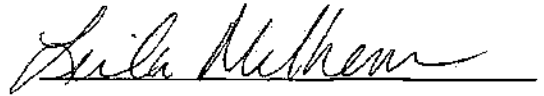
13. I also considered the factors delineated by the Third Court of Appeals in *City of El Paso v. Public Utility Comm'n of Texas*, 916 S.W.2d 515 (Tex. App.—Austin 1995, writ dismissed by agreement):
 - a) Time and labor required;
 - b) nature and complexity of the case;
 - c) amount of money or value of property or interest at stake;
 - d) extent of responsibilities the attorney assumes;
 - e) whether the attorney loses other employment because of the undertaking; and
 - f) benefits to the client from the services.
14. I also considered the relevant criteria relating to the evidence required to support a request for recovery of rate-case expenses set forth in 16 Tex. Admin. Code (TAC) § 25.245(b):
 - a) the nature, extent, and difficulty of the work done by the attorney or other professional in the rate case;
 - b) the time and labor required and expended by the attorney or other professional;
 - c) the fees or other consideration paid to the attorney or other professional for the services rendered;
 - d) the expenses incurred for lodging, meals and beverages, transportation, or other services or materials;
 - e) the nature and scope of the rate case, including:
 - 1) The size of the utility and number and type of consumers served;
 - 2) the amount of money or value of property or interest at stake;
 - 3) the novelty or complexity of the issues addressed;
 - 4) the amount and complexity of discovery;
 - 5) the occurrence and length of a hearing; and
 - 6) the specific issue or issues in the rate case and the amount of rate-case expenses reasonably associated with each issue.
15. As noted above, I am familiar with the rates for utility regulatory work in Texas and elsewhere. The rates charged by an individual lawyer typically vary based on the level of experience of the lawyer performing the work, the size and reputation of the law firm

in which the lawyer works, and the technical nature of the work performed. Although the hourly rate charged by outside counsel for work in this case is an important factor, it is only one of many important factors to be considered. Equally important are factors such as the number of hours worked, the complexity of the issues involved, and the experience of the lawyers involved. That is, an experienced lawyer in a complex case with an hourly rate at the high end of the range is able to more efficiently do the work than a less experienced lawyer with a lower hourly rate, such that the total amount paid at the end of the day is reasonable, even if the hourly rates are at the higher end of the range. Similarly, a lawyer working at an hourly rate at the low- or mid-point range may have spent so many hours on a matter that the total amount paid is not reasonable, even though the rate is low.

16. While there can be and is variation in the hourly rates that different lawyers and law firms charge for working on rate cases, as well as variation in hourly rates over time, the upper end of the legal rates charged in rate cases appears to be in the \$600 to \$800-plus range.
17. I am familiar with many regulatory lawyers in the Texas bar, and the lawyers at WBK enjoy excellent reputations for providing a high level of quality work on both complex and routine matters. WBK work on matters of significant importance to its utility clients. In my experience, the WBK attorneys' hourly rates are: (1) reasonable; (2) commensurate with the WBK attorneys' experience and the types of cases upon which each professional has worked; and (3) consistent with prevailing hourly rates for utility lawyers practicing before the Commission.
18. The rates charged by WBK to SPS for Docket No. 56570 were the same hourly rates the law firm charged to SPS for other matters of which I am familiar.
19. Based on my experience, the types and amount of work performed by the WBK attorneys was consistent with that performed in past cases and was reasonable and justified given the nature of the EECRF proceeding.
20. With respect to the 16 TAC § 25.245(b) and (c) factors that relate to the determination of the reasonableness and necessity of the rate-case expenses SPS seeks to recover, the following information is relevant:

- a) The rate-case expense documentation SPS is filing shows that the fees paid to, tasks performed by, and time spent on a task by an attorney or other professional in these cases is not extreme or excessive;
 - b) The rate-case expense documentation SPS is filing shows that the expenses incurred for any lodging, meals and beverages, transportation, or other services or materials were not extreme or excessive;
 - c) SPS's application, testimony, and related material in Docket No. 56570 as well as the rate-case documentation SPS is filing show there was no unnecessary duplication of services or testimony;
 - d) SPS's application, testimony, and related materials show that SPS's EECRF application has a reasonable basis in law, policy, and fact, and is warranted based on Commission precedent in prior EECRF cases;
 - e) SPS's rate-case expenses in Docket No. 56570, as a whole, are not disproportionate, excessive, or unwarranted in relation to the nature and scope of the case addressed by the evidence pursuant to 16 TAC § 25.245(b) for the reasons noted above; and
 - f) Given the rate-case expense documentation SPS is filing, SPS did not fail to comply with the requirement for providing sufficient information pursuant to 16 TAC § 25.245(b).
21. Based on my experience and after considering the factors listed in paragraphs 12, 13, and 14 above, I conclude the \$39,667.02 in rate-case expenses incurred by SPS in this application were reasonable and necessary considering the complexity of the case, the number of issues addressed, the amount of money involved, the responsibilities assigned to outside lawyers and consultants, and the benefits derived by SPS from the participation of these individuals.

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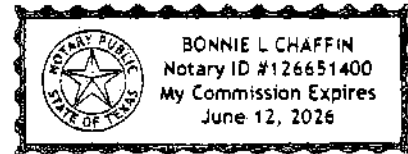


Leila Melhem

SUBSCRIBED AND SWORN TO BEFORE ME on this 30th day of April 2025.


Notary Public State of Texas

My Commission Expires: June 12, 2026



Southwestern Public Service Company

DOCKET NO. 58017

APPLICATION OF

SOUTHWESTERN PUBLIC SERVICE COMPANY

TO ADJUST ITS ENERGY EFFICIENCY

COST RECOVERY FACTOR

The following Files are provided in native form:

Attachment KGI-1.xlsx

Attachment KGI-2.xlsx

Attachment KGI-4.xlsx

The following files are not convertible:

Attachment KGI-1.xlsx
Attachment KGI-2.xlsx
Attachment KGI-4 - Work Papers.xlsx

Please see the ZIP file for this Filing on the PUC Interchange in order to access these files.

Contact centralrecords@puc.texas.gov if you have any questions.