BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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-_____-UT**
SOUTHWESTERN PUBLIC SERVICE COMPANY,	)	
APPLICANT	)	

APPLICATION

Southwestern Public Service Company ("SPS") files this application seeking New Mexico Public Regulation Commission ("Commission" or "NMPRC") approval of the following portfolio of resources to address near term capacity needs:

- Plant X Solar, a 150 MW self-build solar facility located at SPS's existing Plant X Generating Station near Earth, Texas;

- Cunningham 1 Solar, a 72 MW self-build solar facility located at SPS's existing Cunningham Generating Station near Hobbs, New Mexico;
- Cunningham 2 Solar, a 196 MW self-build solar facility located at SPS's existing Cunningham Generating Station near Hobbs, New Mexico (Plant X Solar, Cunningham 1 Solar, and Cunningham 2 Solar are collectively referred to herein as "SPS Solar Projects");
- 36 MW of dispatchable capacity from an SPS self-build battery energy storage system ("BESS") project co-located at the Cunningham Generating Station in New Mexico ("SPS Battery Project"); and
- Service-life extensions of Cunningham Unit 2 from 2025 to 2027, and Maddox Unit 2 from 2025 to 2028, totaling 234 megawatts ("MW"), and abandonment of Cunningham Unit 2 in 2027.

Furthermore, to facilitate the addition of the above portfolio, SPS is seeking approval of necessary rate and accounting treatments for the new resources.

SPS seeks the approvals presented in this application to obtain additional resources to serve its growing system capacity needs. As a result of increased load growth, the Southwest Power Pool's increase to its Planning Reserve Margin ("PRM"), and the expected retirement of generation units that have been operated beyond their original service lives, SPS conducted an all-resource, competitive solicitation through a request for proposal ("RFP" or "All-Source RFP").

The All-Source RFP results provided options from which SPS selected multiple projects to address SPS's resource needs through 2027.

Based on the results of the All-Source RFP process, and in accordance with New Mexico Public Utility Act ("PUA")[1] Sections 62-9-1 and 62-9-6 and Commission Rules 17.1.2.9 New Mexico Administrative Code ("NMAC") and 17.3.580 NMAC, SPS applies to the Commission for a final order in this matter that:

1. Issues SPS a Certificate of Public Convenience and Necessity ("CCN") to construct, operate, and maintain the SPS Solar Projects and the SPS Battery Project at SPS's existing Cunningham Generating Station ("Cunningham") and Plant X Generating Station ("Plant X");[2]
2. Authorizes SPS to accrue an allowance for funds used during construction ("AFUDC") for the SPS Solar Projects and SPS Battery Project in accordance with Rule 17.3.580 NMAC;
3. Approves SPS's proposal to recover the costs of the SPS Solar Projects through the Renewable Portfolio Standard ("RPS") rider in the future in accordance with New Mexico Renewable Energy Act ("REA")[3] Sections 62-16-1 through 62-16-10 and 17.9.572 NMAC;

[1] 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.

[2] *See* PUA §§ 62-9-1, 62-9-6.

[3] NMSA 1978, Sections 62-16-1 to -10.

4. Approves a depreciation rate of 2.86% for the SPS Solar Projects, which is based on a 35-year service life, and a depreciation rate of 5.25% for the SPS Battery Project, which is based on a 20-year service life;

5. Allows SPS to refund to customers, as a credit through its Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC"), the New Mexico retail portion of the grossed-up federal Production Tax Credits ("PTCs") and Investment Tax Credit ("ITC") earned by the SPS Solar Projects and SPS Battery Project, allow SPS to pass transfer costs for the sale of unused tax credits through the FPPCA, and allow SPS to record any unused tax credits in a deferred tax asset that SPS will include in its FPPCAC;[4]

6. Approves SPS's proposal to allow SPS to retain 10% of the margins from off-system sales of energy from the SPS Battery Project;

7. Approves a production-related 12 Coincident Peak ("12-CP") demand allocation factor to allocate the costs and benefits of the SPS Solar Projects and SPS Battery Project among SPS's jurisdictions;

8. Finds that SPS's transactions with affiliates (Capital Services, LLC and Nicollet Lands, LLC) to purchase solar panels and land rights options are reasonable Class I Transactions in accordance with PUA Section 62-6-19(B)(1) and 17.6.450

[4] *See* PUA § 62-8-7; *see also* 17.9.550 NMAC.

NMAC;

9. Approves SPS's request to abandon its Cunningham Unit 2 gas facility in 2027 in accordance with PUA Section 62-9-5 because the present and future public convenience and necessity do not require the continuation of the use of the facility beyond that date;

10. Approves a procedural schedule that will allow SPS to obtain a final order within nine months in accordance with PUA Section 62-9-1(C), or by June 2024 at the latest; and

11. Grants SPS such other approvals, authorizations, and relief as the Commission deems necessary and proper to allow SPS to implement and effectuate the relief in the final order issued in this case.

These approvals and authorizations are described in this Application and SPS's supporting and pre-filed direct testimony concurrently filed with the Application. SPS requests that the Commission enter an order granting the relief requested in this Application within nine months in accordance with PUA Section 62-9-1(C).

In support of this Application, SPS states the following:

I. JURISDICTION

1. SPS is a New Mexico corporation that owns, operates, and controls electric generation, transmission, and distribution plant, property, and facilities that provide retail electric

service to portions of New Mexico and Texas, and electric energy and power to wholesale customers. SPS is a public utility in New Mexico as defined in PUA Section 62-3-3[5] and is subject to the jurisdiction and authority of this Commission.

2. A certified copy of SPS's articles of incorporation is on file with the Commission.

3. SPS's principal office in New Mexico is located at 111 East Fifth Street, Roswell, New Mexico 88201, and its principal corporate office is located at 790 S. Buchanan Street, 7th Floor, Amarillo, Texas 79101.

4. SPS is a wholly owned subsidiary of Xcel Energy Inc. ("Xcel Energy"), which is a holding company under Federal Energy Regulatory Commission ("FERC") regulations adopted under the Public Utility Holding Company Act of 2005.[6] Xcel Energy owns several electric and natural gas utility operating companies, a regulated natural gas pipeline company, and three electric transmission companies.[7]

II. AUTHORIZED REPRESENTATIVES AND SERVICE OF DOCUMENTS

5. SPS's corporate representatives and attorneys who should receive all notices, pleadings, discovery requests and responses, and other documents related to this case are:

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[5] PUA § 62-3-3(G).

[6] 18 C.F.R. § 366.1.

[7] Xcel Energy is the parent company of four utility operating companies: Northern States Power Company, a Minnesota corporation; Northern States Power Company, a Wisconsin corporation; Public Service Company of Colorado, a Colorado corporation; and SPS. Xcel Energy's natural gas pipeline company is WestGas InterState, Inc. Through a subsidiary, Xcel Energy Transmission Holding Company, LLC, Xcel Energy also owns three transmission-only operating companies: Xcel Energy Southwest Transmission Company, LLC; Xcel Energy Transmission Development Company, LLC; and Xcel Energy West Transmission Company, LLC, all of which are currently regulated by FERC.

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III. DESCRIPTION OF SPS'S RECOMMENDED PORTFOLIO

6. On November 28, 2022, SPS issued its 2022 All-Source RFP, which solicited potential capacity solutions to address SPS's projected capacity shortfall in the 2024-2027 timeframe. At the time of the RFP, SPS projected a need of 118 MW of accredited capacity in the summer of 2024, which could grow to 947 MW by the summer of 2027. At the time of the issuance of the RFP, three factors were primarily driving this capacity deficiency: (1) Southwest Power Pool increased its summer PRM requirement from 12% to 15%, effective beginning in the summer of 2023; (2) the retirement of several of SPS's aging resources and expiration of PPAs; and (3) SPS projected continued customer load growth in the future. Although SPS has sufficient capacity to serve its load growth and meet the PRM requirements in 2023 with its current resource mix,[8] a capacity deficit could be realized as early as 2024 if potential new load requests materialize.

[8] SPS is only able to meet those resource needs by extending the service lives of Nichols Units 1 and 2, which are the subject of a pending service-life extension request in SPS's pending rate case, and the interim extension of the Blackhawk PPA; *Application of Southwestern Public Service Company for: (1) Revision of its Retail Rates Under Advice Notice No. 312; (2) Authority to Abandon its Plant X Unit 1, Plant X Unit 2, and Cunningham Unit 1 Generating Stations and Amend the Abandonment Date of the Tolk Generating Station; and (3) Other Associated Relief*, Case No. 22-00286-UT (pending).

7. The table below shows SPS's potential capacity shortfall by year, as included in the 2022 All-Source RFP:

Year:	**2023**	**2024**	**2025**	**2026**	**2027**
Capacity Position Relative to Southwest Power Pool PRM (MW):	718	(32)	(330)	(612)	(873)

8. Bids in response to the 2022 All-Source RFP were due by February 27, 2023. Over the course of the three-month bid evaluation process, certain potential load increases did not materialize as early as originally anticipated. Accordingly, during the bid evaluation process, SPS adjusted the capacity need contained in the 2022 All-Source RFP to reflect the change in projected load. The table below shows SPS's adjusted capacity position by year. This is the capacity position that was reviewed and approved by the Independent Evaluator ("IE") and ultimately utilized when selecting new generation resources.

Line #	**Description**	**2024**	**2025**	**2026**	**2027**
1	Current Accredited Capacity (MW)	5,418	5,411	5,158	4,918
2	Firm Load Obligation	4,332	4,580	4,680	4,735
3	Planning Reserve Margin (MW)	650	687	702	710
4	Capacity Need (MW)	4,982	5,267	5,383	5,446
5	**PRM Capacity Surplus or Shortfall**	**436**	**144**	**(224)**	**(527)**

9. Accordingly, SPS sought resource bids to solve its capacity needs in 2026 and 2027 through the 2022 All-Source RFP. The All-Source RFP was open to all resource types and accepted

firm proposals structured as build-transfers, PPAs, or SPS self-builds. SPS sought site-specific proposals to replace five generating units: (1) Plant X Unit 1, (2), Plant X Unit 2, (3) Cunningham Unit 1, (4) Cunningham Unit 2, and (5) Maddox Unit 2. All bidders were permitted to submit projects using SPS's interconnection rights associated with the retiring generation units. Additionally, SPS accepted proposals from any other new or existing generation facilities that had completed at least the Phase 2 studies of the Southwest Power Pool generator interconnection process to ensure any submitted project would be operational by the time the capacity would be needed in 2026 or 2027. SPS established an internal separation protocol between the SPS bid-evaluation team and the SPS self-build bid development team. The IE retained by SPS monitored the internal separation protocol and all communications between bidders and the bid-evaluation team. SPS self-build proposals were due February 24, 2023, and all other proposals were due February 27, 2023. SPS received and considered 78 proposals from five companies that proposed five technologies: natural gas, hydrogen, solar, wind, and BESS.

10. After the RFP concluded, SPS considered 49 proposals comprising 15 distinct projects that met the criteria for threshold review, and then ultimately made a final selection of proposals that make up its "Recommended Portfolio."

11. SPS's Recommended Portfolio consists of: (1) the SPS Solar Projects, which are three self-build solar projects with a total nameplate capacity of 418 MW and projected in-service dates of 2026 and 2027; (2) the SPS Battery Project, which is one self-build BESS with a capacity of 36 MW and a projected in-service date of 2026; and (3) two multi-year dispatchable PPAs, one

from a natural gas generation resource and another from a BESS resource ("Dispatchable PPAs"), with expected effective dates of 2024 and 2025, respectively.[9] In addition, to ensure that SPS has the Cunningham Unit 2 capacity until the Cunningham 2 Solar Project is placed in service, SPS plans to extend the service life of its existing Cunningham Unit 2 gas generation from 2025 to 2027 and requests approval to abandon the unit in 2027. Further, in order to have access to needed generation capacity through 2028 with a low incremental cost, SPS is planning to extend the service life of its existing Maddox Unit 2 from 2025 to 2028. SPS intends to update the depreciation life of both facilities for ratemaking purposes in its next base rate case. The Recommended Portfolio is listed in the table below:

Resource:	**Structure:**	**Resource Type:**	**Maximum Capability:**	**Location:**
Plant X1&2 Solar Project	Self-build	Solar	150 MW	Lamb County, Texas
Cunningham 1 Solar Project	Self-build	Solar	72 MW	Lea County, New Mexico
Cunningham 2 Solar Project	Self-build	Solar	196 MW	Lea County, New Mexico
Cunningham 1 Battery	Self-build	BESS	36 MW	Lea County, New Mexico
Dispatchable PPA 1	PPA	Natural gas	230 MW*	Texas
Dispatchable PPA 2	PPA	BESS	48 MW*	Texas
Cunningham Unit 2	Service-life extension	Natural gas	183 MW	Lea County, New Mexico
Maddox Unit 2	Service-life extension	Natural gas	61 MW	Lea County, New Mexico

[9] As explained below, SPS will request approval of the Dispatchable PPAs in a later filing.

Resource:	Structure:	Resource Type:	Maximum Capability:	Location:
*PPA capacity subject to change based on final negotiations. As explained by Ms. Trammell, the PPAs will be addressed in a separate proceeding.				

12. SPS's Recommended Portfolio will ensure that SPS can provide its customers with sufficient low-cost generation capacity from a diverse resource mix and meet Southwest Power Pool's required minimum PRM requirement through 2027. The SPS Solar Projects will provide much needed capacity; avoid fuel and energy costs; earn valuable PTCs, including potentially the Energy Community PTC bonus, further lowering customers' costs; and use existing interconnections to minimize development delays and avoid incremental interconnection costs. Additionally, the SPS Battery Project will provide low-cost capacity to meet SPS's capacity needs, enhance SPS's flexibility to dispatch its portfolio cost-effectively, avoid additional interconnection costs, and qualify for an ITC and potentially the Energy Community ITC bonus. The Dispatchable PPAs will deliver dispatchable gas and battery capacity and energy in the near term to meet SPS's earliest capacity needs. Finally, the service life extensions for Cunningham Unit 2 and Maddox Unit 2 will maximize the usefulness of those existing gas facilities and ensure SPS has sufficient capacity through 2027 and 2028.

13. SPS is not yet requesting approval of the Dispatchable PPAs because final negotiations are in process. However, SPS expects that both Dispatchable PPAs will be executed within 30 to 60 days of this filing, and SPS will seek approval of the Dispatchable PPAs as

reasonable and consistent with Rule 17.9.551 NMAC. Once the Dispatchable PPAs have been executed, SPS will file a separate application to present the required information and evidence for the Commission's review.

IV. SPS'S REQUEST FOR COMMISSION APPROVALS, AUTHORIZATIONS, AND DETERMINATIONS

14. To proceed with SPS's Recommended Portfolio, SPS files this application and generally requests that the Commission (1) issue SPS a CCN to construct, own, and operate the SPS Solar Projects and SPS Battery Project; (2) allow SPS to accrue AFUDC; (3) establish ratemaking principles and treatments that SPS will use upon commercial operation and in future rate proceedings, including recovery of costs and investment associated with the SPS Solar Projects and SPS Battery Project through the RPS Rider; (4) approve SPS's proposed depreciation rates for the SPS Solar Projects and SPS Battery Project; (5) allow SPS to flow the benefits of Production Tax Credits and Investment Tax Credits to customers through SPS's FPPCAC, allow SPS to pass transfer costs for the sale of unused tax credits through the FPPCA and allow SPS to recover through the FPPCAC a deferred tax asset associated with those credits (6) approve SPS's proposal to allow SPS to retain 10% of the margins from off-system sales of energy from the SPS Battery Project; (7) approve SPS's proposed allocation of costs and benefits among its customers; (8) approve SPS's affiliate transactions and purchases of land rights and leases; (9) approve the abandonment of the Cunningham Unit 2 natural gas unit; and (10) issue a final order within nine

months, or by June 2024 at the latest, so that SPS will be in a position to further assess its future capacity needs.

A. Issuance of a CCN for the SPS Solar Projects and SPS Battery Project and Accrual of AFUDC

15. In accordance with PUA Sections 62-9-1 and 62-9-6, SPS is requesting that the Commission determine that the public convenience and necessity requires the construction, ownership, and operation of the SPS Solar Projects and SPS Battery Project and issue a CCN for the SPS Solar Projects and SPS Battery Project.[10] SPS also requests that the Commission authorize SPS to accrue an AFUDC on the SPS Solar Projects and SPS Battery Project in accordance with 17.3.580 NMAC.

16. The direct testimonies of SPS witnesses Brooke A. Trammell, Jarred J. Cooley, Ben R. Elsey, Mark Lytal, and Ian C. Fetters describe how the "public convenience and necessity require or will require such construction or operation" of the SPS Solar Projects and SPS Battery Project.[11] SPS Witnesses Ms. Trammell, Mr. Lytal, and Mr. Fetters describe the "Certificated Estimated Cost" of the SPS Self-Build Projects for the purposes of 17.3.580 NMAC.[12] SPS requests that the Commission: (1) issue a CCN for the development, construction, and operation

[10] *See* PUA § 62-9-1(A).

[11] *Id.*

[12] *See* 17.3.580.7(A) NMAC ("'Certificated Estimated Cost' means the total cost of construction of electric generating plant for the utility, including Allowances for Funds Used During Construction ("AFUDC"), as estimated by the utility at the time of issuance by the Commission of the CCN for the plant and reflected in the order issuing the CCN.").

of the SPS Solar Projects and SPS Battery Project and (2) authorize SPS to accrue an AFUDC for the SPS Solar Projects and SPS Battery Project.

B. Approval of SPS's proposal to recover the costs of the SPS Solar Projects through the RPS Rider

17. Although SPS is not filing an RPS cost rider application at this time, SPS requests that the Commission review and approve of SPS's proposal to recover the costs of the SPS Solar Projects through its RPS rider in the future. REA Section 62-16-6 provides that "[a] public utility that procures or generates renewable energy shall recover, through the rate-making process, the reasonable costs of complying with the renewable portfolio standard."[13] Further, the Commission's renewable energy rule requires utilities "to recover the reasonable costs of complying with [the renewable energy] rule through the rate making process, including its reasonable interconnection and transmission costs, costs to comply with electric industry reliability standards, and other costs attributable to acquisition and delivery of renewable energy and zero carbon energy to retail New Mexico customers."[14]

18. As described by SPS witness Ms. Trammell, the costs of the SPS Solar Projects are directly attributable to the acquisition and delivery of renewable energy and zero carbon energy to retail New Mexico customers. And SPS will receive renewable energy credits ("RECs") as a result of the construction and operation of the SPS Solar Projects, contributing to SPS's compliance with

[13] REA § 62-16-6.

[14] 17.9.572.15(A) NMAC (emphasis added).

the RPS. Therefore, SPS requests that the Commission pre-approve SPS's proposal to include the costs of the SPS Solar Projects in the RPS rider.

C. Approval of depreciation rates for the SPS Solar Projects and SPS Battery Project

19. Utilities like SPS may "request that the [C]ommission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the [CCN]."[15] SPS currently has no Commission-approved depreciation rates for solar production facilities or battery storage facilities.[16] Accordingly, for the production related assets that will be included in the SPS Solar Projects, SPS proposes to use a depreciation rate of 2.857%, which reflects a 35-year service life and a 0% net salvage rate. Similarly, for the production assets that SPS will include in the SPS Battery Project, SPS proposes to use a depreciation rate of 5.25%, which reflects a 20-year service life and a negative 5% net salvage rate. SPS witnesses Ms. Trammell, Mr. Fetters, and Mr. Lytal explain the appropriateness of the proposed depreciation rates, service lives, and net salvage rates. SPS requests that the Commission approve SPS's proposed 2.857% depreciation rate for the SPS Solar Projects and proposed 5.25% depreciation rate for the SPS Battery Project.[17]

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[15] PUA § 62-9-1(B).

[16] *See* Case No. 22-00286-UT (Pending).

[17] SPS must also construct Transmission-Serving Generation facilities to interconnect the SPS Solar Projects and SPS Battery Project. In Case No. 19-00170-UT, the Commission set depreciation rates for the FERC accounts in which those facilities are recorded, so it is not necessary to establish new depreciation rates for those asset classes in this proceeding.

D. Approval of SPS's proposal to refund PTCs and ITCs to customers through SPS's FPPCAC

20. Utilities like SPS may "request that the [C]ommission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the [CCN]."[18] SPS proposes to refund to customers, as a credit through SPS's FPPCAC, federal PTCs and ITCs generated by the SPS Solar Projects and SPS Battery Project.

21. Pursuant to the Inflation Reduction Act ("IRA")[19] and associated federal tax reform, the SPS Solar Projects will earn federal PTCs for each kWh of energy they produce in the first ten years of the projects' operations.[20] Additionally, the SPS Solar Projects may qualify for the IRS's Energy Community PTC bonus. The SPS Battery Project will qualify for a federal ITC and may also qualify for the Energy Community ITC bonus. In the case of the PTCs, SPS proposes to credit the value of generated PTCs through SPS's FPPCAC on a monthly basis so long as the credits are generated. SPS proposes to credit the value of the ITC through SPS's FPPCAC each month for five years, until the ITC is exhausted.

22. The IRA's federal tax reform also provided for transferability provisions related to federal tax credits. However, before 2023, federal tax credits (either PTCs or ITCs) were not

[18] PUA § 62-9-1(B).

[19] Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818.

[20] 26 U.S.C. § 45(a), (c)(1)(E).

transferable.[21] SPS generated unused PTCs, which were PTCs that SPS or the Xcel Energy consolidated group were unable to use to offset taxable income on their federal income tax return. Thus, SPS accrued these unused PTCs in a deferred tax asset ("DTA") and included that DTA in SPS's rate base for purposes of setting base rates.

23. Beginning with credits generated in 2023, the IRA allowed PTC and ITC recipients to transfer unused credits to another taxpayer.[22] Thus, SPS intends to transfer, or sell, unused federal tax credits generated in 2023 and thereafter. This benefits customers by reducing the DTA that would otherwise accrue if SPS was unable to utilize earned tax credits to offset its federal income tax liability. SPS requests that the Commission approve SPS's proposal to pass the transfer costs of the sale of the tax credits generated by the SPS Solar Projects and the SPS Battery Project to customers through SPS's FPPCAC.

24. Additionally, SPS is proposing the SPS Solar Projects and the SPS Battery Project as capacity resources and is requesting that the revenue requirement associated with the SPS Solar Projects and the SPS Battery Project be allocated among its regulatory jurisdictions as well as among customer classes on a production demand basis. Thus, as further detailed in the direct testimony of Ms. Trammell, SPS proposes to allocate the PTCs and the ITC among customer

[21] *See* Inflation Reduction Act of 2022, Pub. L. No. 117-169, title I, § 13801(b), 136 Stat. 1818, 2009 (codified at 26 U.S.C. § 6418) (allowing recipients to transfer PTCs for taxable years beginning after December 31, 2022).

[22] Inflation Reduction Act of 2022, Pub. L. No. 117-169, title I, § 13801(b), 136 Stat. 1818, 2009 (codified at 26 U.S.C. § 6418); *see also* 88 Fed. Reg. 40,496 (Jun 21, 2023) (to be codified at 26 C.F.R. pt. 1) (proposing rules for the election to transfer PTCs).

classes on a production demand basis to ensure that the PTC and ITC value is returned to customers in a manner consistent with the allocation of the investment to generate the PTCs and ITC.

25. SPS requests that the Commission confirm that SPS is authorized to pass the PTCs and ITC—grossed up for taxes—associated with the SPS Solar Projects and the SPS Battery Project on to SPS customers through SPS's FPPCAC on a production demand basis.

26. In the unlikely scenario that SPS is unable to transfer all unused federal tax credits in a given year, SPS proposes to accrue the unused tax credits in a DTA and recover that DTA with a weighted average cost of capital return through SPS's FPPCAC in accordance with Section 62-8-7(F) of the PUA. This treatment aligns with SPS's proposed treatment to return the value of generated PTCs and ITC to customers through SPS's FPPAC. The direct testimony of Ms. Trammell provides further details regarding this proposal. SPS requests that the Commission approve SPS's proposal to accrue any unused federal tax credits, if any exist, in a DTA and recover that DTA with a weighted average cost of capital return through fuel.

E. Approval of off-system sales treatment

27. Utilities like SPS may "request that the [C]ommission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the [CCN]."[23] SPS proposes to return to customers 90% and retain 10% of the margins from all off-system sales of energy from the SPS Battery Project. Given the unique nature

[23] PUA § 62-9-1(B).

of the SPS Battery Project and the opportunity to operate it in a manner to provide added benefits to customers, it is appropriate to allow SPS to retain a small portion of the margins to incent off-system sales. SPS witnesses Ms. Trammell further describes SPS's proposal.

F. Approval of costs and benefits allocation among SPS's New Mexico retail customers

28. Utilities like SPS may "request that the [C]ommission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the [CCN]."[24] SPS proposes to allocate the costs and benefits associated with the SPS Solar Projects and SPS Battery Project among SPS's regulatory jurisdictions using a production capacity related 12 Coincident Peak ("12-CP") demand allocation factor and among New Mexico retail customer classes using SPS's production capacity related class allocation factor. That treatment is consistent with the method and approach proposed by SPS in its prior and current rate cases for capacity related power production rate base.[25] SPS requests that the Commission approve the use of its production demand jurisdictional and class allocation factors to allocate costs associated with the SPS Solar Projects and SPS Battery Project. Accordingly, and to ensure the allocation of investment matches the allocation of associated customer benefit, SPS proposes to credit the federal PTCs generated by the SPS Solar Facilities and the ITC generated

[24] PUA § 62-9-1(B).

[25] *See, e.g., In the Matter of Southwestern Public Service Company's Application for: (1) Revision of its Retail Electric Rates Under Advice Notice No. 282; (2) Authorization and Approval to Shorten the Service Life and Abandon its Tolk Generating Station Units; and (3) Other Related Relief*, Case No. 19-00170-UT (May 20, 2020); Case No. 22-00286-UT (Pending).

by the SPS Battery Project through fuel and among customer classes on a production demand basis. SPS witnesses Ms. Trammell and Mr. Fetters address this issue in their direct testimonies.

G. Approval of Class I Affiliate Transactions

29. Utilities must notify the Commission of Class I Transactions, which are transactions that involve sales of goods, services, or property between a public utility and an affiliate.[26] The Commission may investigate Class I Transactions to determine whether the costs and terms are reasonable.[27]

30. Some of the materials and land rights associated with the SPS Solar Projects and the SPS Battery Project will involve transactions with SPS affiliates. The direct testimony of Ms. Trammell provides notice of these Class I Transactions and describes how the transactions are reasonable, necessary, and do not contain any markup. Accordingly, SPS requests that the Commission determine that the affiliate transactions comply with the requirements of PUA Section 62-6-19 and 17.6.450.11 NMAC.

H. Approval of Abandonment of Cunningham Unit 2

31. PUA Section 62-9-5 prohibits utilities from "abandon[ing] all or any portion of its facilities subject to the jurisdiction of the commission, or any service rendered by means of such facilities, without first obtaining the permission and approval of the commission."[28] The

[26] PUA §§ 62-3-3(K), 62-6-19; NMAC 17.6.450.11.

[27] PUA § 62-6-19(B).

[28] *Id.* § 62-9-5.

Commission "shall grant such permission and approval, after notice and hearing, upon finding that the continuation of service is unwarranted or that the present and future public convenience and necessity do not otherwise require the continuation of the service or use of the facility."[29] And when "considering the present and future public convenience and necessity, the [C]ommission shall specifically consider the impact of the proposed abandonment of service on all consumers served in this state, directly or indirectly, by the facilities sought to be abandoned."[30]

32. SPS witnesses Ms. Trammell and Mr. Lytal describe SPS's Cunningham Unit 2, SPS's plan to extend the service life of Cunningham Unit 2 to 2027, and that the present and future public convenience and necessity does not require continuation of the use of the facility beyond 2027. Thus, SPS requests that the Commission approve SPS's request to abandon Cunningham Unit 2 in 2027.

V. NOTICE AND PROCEDURAL REQUIREMENTS

33. SPS is serving a copy of this filing on the Commission Staff, the New Mexico Attorney General, and all parties in SPS's most recent base rate case (Case No. 22-00286-UT). Additionally, SPS will publish notice of the filing of the Application in accordance with 17.1.2.9(D) NMAC.

34. SPS's proposed form of notice is attached to the Application as Exhibit A.

[29] *Id.*

[30] *Id.*

35. In accordance with PUA Section 62-9-1(C), the Commission may approve SPS's request for a CCN without a formal hearing if no protest is filed within 60 days after SPS's publication of notice regarding the filing of the application in this case.

VI. MISCELLANEOUS ISSUES

36. In support of its Application, SPS is concurrently filing the direct testimony of the following witnesses who discuss the matters described below:

Witness:	Area of Testimony:
Brooke A. Trammell	Provides an overview of SPS and its application; and demonstrates the need for SPS to (1) develop, construct, and operate the SPS Solar Projects; (2) develop, construct, and operate the SPS Battery Project; (3) execute the two Dispatchable PPAs; and (4) extend the service lives of two existing dispatchable gas generating units.
Ben R. Elsey	Discusses the need for and structure of SPS's 2022 RFP; reviews the RFP timeline, solicitation documents, bid evaluation criteria and process, and the role of the Independent Evaluator; and presents the modeled Recommended Portfolio by discussing the projects selected as well as their costs and benefits.
Mark Lytal	Regarding the SPS Solar Projects and the SPS Battery Project, describes the engineering aspects, major contracts, construction schedule, associated generation tie lines, and estimated costs of each project. Mr. Lytal addresses the reasonableness of the estimated costs for the SPS Solar Projects and the SPS Battery Project, the retirements or service-life extensions of five existing SPS gas facilities, and certain construction-related CCN requirements related to the SPS Solar Projects and the SPS Battery Project.
Jarred J. Cooley	Discusses transmission access, planning, and requests related to the SPS Solar Projects and the SPS Battery Project; and estimates the customer value of utilizing existing interconnection rights.
Ian Fetters	Quantifies the total company revenue requirement for the SPS Solar Projects and the SPS Battery Project; allocates the total company revenue requirement to the New Mexico retail jurisdiction; and describes the economic benefits the SPS Solar Projects and the SPS Battery Project on a New Mexico retail jurisdictional basis.

Based on the previous discussion, in addition to approving SPS's form of notice, SPS respectfully requests that the Commission enter a final order that grants the following relief:

1. Issue a CCN authorizing SPS to construct, operate, and maintain the SPS Solar Projects and SPS Battery Project in accordance with PUA Sections 62-9-1 and 62-9-6;
2. Authorize SPS to accrue AFUDC for the SPS Solar Projects and SPS Battery Project in accordance with 17.3.580 NMAC;
3. Approve SPS's proposal to recover the costs of the SPS Solar Projects through the RPS rider in the future in accordance with REA Sections 62-16-1–62-16-10 and 17.9.572 NMAC;
4. Approve the depreciation rates for the SPS Solar Projects and SPS Battery Project;
5. Allow SPS to refund to customers, as a credit through its FPPCAC, the New Mexico retail portion of the grossed-up federal PTCs and ITCs earned by the SPS Solar Projects and SPS Battery Project, allow SPS to pass transfer costs for the sale of unused tax credits through the FPPCA, and allow SPS to record any unused tax credits in a deferred tax asset that SPS will include in its FPPCAC;
6. Allow SPS to retain 10% of the margins from off-system sales of energy from the SPS Battery Project;

7. Approve a production-related 12-CP demand allocation factor to allocate the costs and benefits of the SPS Solar Projects and SPS Battery Project among SPS's jurisdictions;

8. Approve SPS's request to abandon Cunningham Unit 2 in 2027 in accordance with PUA Section 62-9-5 because the present and future public convenience and necessity do not otherwise require the continuation of the use of the facility;

9. Find that SPS's transactions with affiliates (Capital Services, LLC and Nicollet Lands, LLC) to purchase solar panels and land rights options are reasonable Class I Transactions in accordance with PUA Section 62-6-19(B)(1) and 17.6.450 NMAC;

10. Approve a procedural schedule that will allow SPS to obtain a final order within nine months in accordance with PUA Section 62-9-1(C), or no later than June 2024; and

11. Grant SPS such other approvals, authorizations, and relief as the Commission deems necessary and proper to allow SPS to implement and effectuate the relief in the final order issued in this case.

Respectfully submitted,

/s/ Dana S. Hardy

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ATTORNEYS FOR SOUTHWESTERN PUBLIC SERVICE COMPANY

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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-_____-UT**
SOUTHWESTERN PUBLIC SERVICE COMPANY,	)	
APPLICANT		

EXHIBIT A – PROPOSED NOTICE TO CUSTOMERS

NOTICE IS HEREBY GIVEN that:

1. On July 26, 2023, Southwestern Public Service Company ("SPS") filed an application with the New Mexico Public Regulation Commission ("Commission") requesting that the Commission issue SPS a Certificate of Public Convenience and Necessity ("CCN") in accordance with New Mexico Public Utility Act ("PUA") §§ 62-9-1 and 62-9-6 and Commission Rules 17.1.2.9 New Mexico Administrative Code ("NMAC") and 17.3.580 NMAC to construct three solar projects ("SPS Solar Projects") and a battery storage project ("SPS Battery Project") at SPS's existing Cunningham Generating Station ("Cunningham") and Plant X Generating Station ("Plant X"). SPS has determined that it requires additional generation resources starting in 2024 to meet the Southwest Power Pool's Planning Reserve Margin and SPS's projected load growth. Accordingly, SPS conducted an all-source request for proposals ("All-Source RFP") in 2022–2023. Through that competitive All-Source RFP, SPS selected the SPS Solar Projects and SPS Battery Project submitted in the application, which have a combined nameplate capacity of 454 megawatts. In addition, SPS is negotiating two purchased power agreements ("PPAs") for

dispatchable energy. SPS expects to execute the PPAs within the next 30-60 days, at which point SPS will seek approval of the PPAs as reasonable and consistent with Rule 17.9.551 NMAC.

2. In addition to requesting that the Commission issue SPS a CCN to construct those projects and allow SPS to accrue an allowance for funds used during construction ("AFUDC"), the application also asks the Commission to approve (1) ratemaking and accounting treatments that SPS will use in future rate proceedings regarding certain costs and tax credits associated with the SPS Solar Projects and SPS Battery Project; (2) the abandonment of the Cunningham Unit 2 natural gas units; and (3) SPS's affiliate transactions and purchases of land rights and leases.

3. Specifically, SPS's application requests that the Commission:

A. Issue SPS a CCN to construct, operate, and maintain the SPS Solar Projects and the SPS Battery Project at SPS's existing Cunningham and Plant X Generating Stations in accordance with PUA §§ 62-9-1, 62-9-6.

B. Authorize SPS to accrue an AFUDC for the SPS Solar Projects and SPS Battery Project in accordance with Rule 17.3.580 NMAC;

C. Approve SPS's proposal to recover the costs of the SPS Solar Projects through the Renewable Portfolio Standard ("RPS") rider in the future in accordance with New Mexico Renewable Energy Act Sections 62-16-1 through 62-16-10 and 17.9.572 NMAC;

D. Approve a depreciation rate of 2.86% for the SPS Solar Projects, which is based on a 35-year service life, and a depreciation rate of 5.25% for the SPS Battery Project, which is based on a 20-year service life;

E. Allow SPS to refund to customers, as a credit through its Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC"), the New Mexico retail portion of the grossed-up federal Production Tax Credits and Investment Tax Credit earned by the SPS Solar Projects and SPS Battery Project, allow SPS to pass transfer costs for the sale of unused tax credits through the FPPCA, and allow SPS to record any unused tax credits in a deferred tax asset that SPS will include in its FPPCAC;

F. Approve SPS's proposal to allow SPS to retain 10% of the margins from off-system sales of energy from the SPS Battery Project;

G. Approve a production-related 12 Coincident Peak demand allocation factor to allocate the costs and benefits of the SPS Solar Projects and SPS Battery Project among SPS's jurisdictions;

H. Find that SPS's transactions with affiliates to purchase solar panels and land rights options are reasonable Class I Transactions in accordance with PUA Section 62-6-19(B)(1) and 17.6.450 NMAC;

I. Approve SPS's request to abandon its Cunningham Unit 2 gas facility in 2027 in accordance with PUA Section 62-9-5 because the present and future public convenience and necessity do not require the continuation of the use of the facility beyond that date;

J. Approve a procedural schedule that will allow SPS to obtain a final order within nine months in accordance with PUA Section 62-9-1(C), or by June 2024 at the latest; and

K. Grant SPS such other approvals, authorizations, and relief as the Commission deems necessary and proper to allow SPS to implement and effectuate the relief in the final order issued in this case.

4. The total estimated cost of the four projects is approximately $768 million, which includes land rights, transmission costs, contingency, and AFUDC. However, SPS is not requesting recovery of these costs in this proceeding. Instead, SPS will seek cost recovery for the SPS Solar Projects in SPS's RPS rider in this proceeding, or in future general base rate filings if the Commission disapproves of SPS using its RPS rider to recover the costs of the SPS Solar Projects. SPS will seek recovery of the SPS Battery Project in a future general base rate filing.

5. By order issued in this case on _____, 2023, the Hearing Examiner established the following procedural schedule and requirements for this case:

A. Any person desiring to become a party to this case must file with the Commission's records department at prc.records@state.nm.us a Motion for Leave to Intervene in conformity with Rules 1.2.2.23(A) and 1.2.2.23(B) NMAC on or before _____, 2023. All motions for leave to intervene shall be served on all existing parties and other proposed intervenors of record. A copy shall also be emailed to the Hearing Examiner at _____ in Microsoft Word format.

B. The Commission's Utility Division Staff shall, and any intervenors may, file direct testimony on or before _____, 2023.

C. Rebuttal testimony may be filed on or before _____, 2023.

D. For direct testimony, any motions in limine, motions to strike testimony, or other prehearing motions shall be filed on or before _____, 2023. Responses to such motions shall be filed on or before _____, 2023.

E. For rebuttal testimony, any motions in limine, motions to strike testimony, and other prehearing motions shall be filed on or before _____, 2023. Responses to such motions shall be filed on or before _____, 2023.

F. A public hearing will be held, if necessary, beginning at on _____, 2023, and will continue through _____, 2023, as determined to be necessary by the Hearing Examiner. Each hearing session shall commence at _____ Mountain Time ("MT") unless otherwise ordered.

G. Based on present conditions and logistical issues, the Hearing Examiner has concluded that it will be necessary to conduct any public hearing via the Zoom videoconference platform. Access to and participation in the public hearing shall be limited to party participants (i.e., counsel and witnesses), the Commissioners, and other essential Commission personnel. Any Zoom hearing will be livestreamed through YouTube and will be displayed on the Commission's website at https://www.nm-prc.org. Persons not participating in the evidentiary hearing as an attorney or witness may view the hearing on the Commission's website and shall not join the hearing via Zoom except to provide oral comments as allowed in paragraph 7 below.

6. The Commission's Rules of Procedure (Rule 1.2.2 NMAC) shall apply in this case except as modified by order of the Commission or Hearing Examiner. A copy of such Rules may be obtained from the offices of the Commission and are available online at the official NMAC website: https://www.srca.nm.gov/nmac-home/nmac-titles/.

7. Interested persons who are not affiliated with a party may make oral or written comments in accordance with Rule 1.2.2.23(F) NMAC without becoming an intervenor. Oral comments shall be taken at the beginning of the evidentiary hearing on _____, 2023, and commenters shall be limited to three minutes per comment. Written public comments may be

submitted before the Commission takes final action in this proceeding by sending the comment, which shall reference Case No. 23-_____-UT, to prc.records@state.nm.us. In accordance with Rule 1.2.2.23(F) NMAC, oral or written comments shall not be considered as evidence in this proceeding

8. SPS's Application, together with supporting pre-filed direct testimony, any exhibits, and related papers, may be examined by any interested person online at the Commission's website at https://edocket.nmprc.state.nm.us, in person at the offices of SPS or the Commission at the following addresses, or by calling SPS at 1-800-895-4999 during normal business hours. All inquiries or written comments should reference Case No. 23-_____UT.

Mike McLeod, Manager Community Relations
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111 E. Fifth Street
Post Office Box 1937
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(577) 625-5499 or 1-800-895-4999

Brooke Trammell, Regional Vice President, Regulatory & Pricing
Southwestern Public Service Company
790 S. Buchanan Street, 7th Floor
Amarillo, Texas 79101
Office: (806) 513-1436

Records Management Bureau
New Mexico Public Regulation Commission
P.O. Box 1269
Santa Fe, New Mexico 87504-1269
(505) 827-6956

9. Anyone filing pleadings, testimony, or other documents in this case shall (1) serve copies on all parties of record and the Commission Staff via email on the date they are filed with the Commission and (2) comply with the Commission's Electronic Filing Policy, as amended from time to time. The Electronic Filing Policy requires all filings to be made by emailing the filing in PDF format and with electronic signatures to prc.records@state.nm.us within the regular business hours of the due date to be considered timely filed. Documents received after regular business hours will be considered filed the next business day. Regular business hours are 8:00 a.m.–5:00 p.m. MT. All filings shall also be sent to the Hearing Examiner at _____ and shall include versions created in Microsoft Word or other applicable native formats if available.

10. The procedural dates and requirements currently set in this case are subject to further order of the Commission or the Hearing Examiner. Interested persons should contact the Commission at (505) 690-4191 or ana.kippenbrock@prc.nm.gov for confirmation of the hearing date, time, and place because hearings are occasionally rescheduled or canceled if deemed not required in the discretion of the Hearing Examiner or the Commission.

11. Any person filing prepared testimony consistent with Rule 1.2.2.35(I) NMAC on behalf of a party shall attend the hearing and submit to examination under oath. No person shall testify at the hearing unless that person has pre-filed testimony.

12. Additional details regarding this proceeding and its procedural requirements are set forth in the Hearing Examiner's _____, 2023 Procedural Order.

13. Any person with a disability requiring special assistance to participate in this proceeding should contact the Commission at 505-827-4500 at least 24 hours prior to the commencement of the hearing.

ISSUED at Santa Fe, New Mexico, this ____ day of _____, 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION

_____

Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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-_____-UT**
SOUTHWESTERN PUBLIC SERVICE COMPANY,	)	
APPLICANT.	)	

CERTIFICATE OF SERVICE

I certify that a true and correct copy of *Southwestern Public Service Company's Application, and the Direct Testimony of Brooke A. Trammell, Ben R. Elsey, Mark Lytal, Jarred J. Cooley and Ian C. Fetters* was electronically sent to each of the following on this 26th day of July 2023:

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