

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 SOUTHWESTERN PUBLIC SERVICE COMPANY, CASE NO. 23-00252-UT

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.
 - F. 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;
 - G. Approve SPS's proposal to allow SPS to retain 10% of the margins from off-system sales of energy from the SPS Battery Project;
 - H. 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;
 - I. 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;
 - J. 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;
 - K. 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
 - L. 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.
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,
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 August 28, 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@prc.nm.gov 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 October 31, 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 Hans.Muller@prc.nm.gov in Microsoft Word format.
 - B. The Commission's Utility Division Staff shall, and any intervenors may, file direct testimony on or before December 1, 2023.
 - C. Rebuttal testimony may be filed on or before December 21, 2023.

D. For direct testimony, any motions in limine, motions to strike testimony, or other prehearing motions shall be filed on or before January 22, 2024. Responses to such motions shall be filed on or before January 26, 2024.

E. For rebuttal testimony, any motions in limine, motions to strike testimony, and other prehearing motions shall be filed on or before January 29, 2024. Responses to such motions shall be filed on or before February 2, 2024.

F. A public hearing will be held, if necessary, beginning at on February 12, 2024, and will continue through February 14, 2024, as determined to be necessary by the Hearing Examiner. Each hearing session shall commence at 9:00 a.m. 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 February 12, 2024, and commenters shall be limited to three minutes per comment. To register to provide oral comment, email Ana.Kippenbrock@prc.nm.gov not later than 8:30 a.m. on February 12. Written public comments may be submitted before the Commission takes final action in this proceeding by sending the comment, which shall reference Case **No. 23-00252-UT**, to prc.records@prc.nm.gov. 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://www.nm-prc.org/case-lookup-e-docket/>, in person at the offices of SPS at the following addresses, or by calling SPS at **800-895-4999** during normal business hours. All inquiries or written comments should reference **Case No. 23-00252-UT**.

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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@prc.nm.gov 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 Hans.Muller@prc.nm.gov 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 August 28, 2023 Procedural Order.
13. Any person with a disability requiring special assistance to participate in this proceeding should contact the Commission's ADA Coordinator at **505-412-3502** to request such assistance as soon as possible, preferably as soon as the person receives this notice, to allow consideration of the request and to arrange for a potential reasonable accommodation.

ISSUED at Santa Fe, New Mexico, this 28th day of August 2023.
New Mexico Public Regulation Commission
Hans Muller Hearing Examiner

