

(“Next Plan Year”) under Rule 572.14, the REA, and prior Commission Orders related to SPS’s Plan Year and Next Plan Year RPS requirements;

- (c) approves SPS’s proposed rate for its 2021 RPS Rider,³ which includes, without limitation, recovery of its RPS-related costs over a 12-month period beginning January 1, 2021, as shown in Advice Notice No. 288, attached hereto;
- (d) approves SPS’s proposed rate for its 2021 RPS Reconciliation Rider, as shown in Advice Notice No. 288, attached hereto, to appropriately credit customers in 2021 for the true-up of amounts associated with periods predating the effective date of the Energy Transition Act, Senate Bill 489 (“ETA”), when the large customer cap was in effect. Those true-up amounts are comprised of reconciliation of the 2019 RPS Rider and associated interest;
- (e) approves SPS’s proposal to exercise its Renewable Energy Certificate (“REC”) purchase options for the New Mexico retail allocation, for RPS compliance purposes, in five renewable energy Purchased Power Agreements (“PPAs”) with NextEra Energy: (i) Bonita Wind Energy, LLC (“Bonita”); (ii) Roswell Solar, LLC (“Roswell”); (iii) Chaves County Solar, LLC (“Chaves”); (iv) Mammoth Plains Wind Project Holdings, LLC (“Mammoth”); and (v) Palo Duro Wind Energy, LLC (“Palo Duro”);
- (f) approves SPS’s proposal to assign the unassigned portion (approximately 80 megawatt (“MW”)) of the Roswell and Chaves PPAs to its New Mexico retail customers and to exercise the associated REC purchase option for meeting the RPS requirements;
- (g) approves SPS’s application for an incentive related to exceeding the RPS requirements;
- (h) approves SPS’s proposal to update the SunE PPA imputed REC prices;
- (i) approves SPS’s 2021 Solar*Connect Community Rate Rider, consistent with the final order in Case No. 18-00308-UT, as shown in Advice Notice No. 289, attached hereto;

² In accordance with 17.9.572.14 NMAC, SPS is submitting its 2022 Next Plan Year for informational purposes only.

³ Approved in *In the Matter of Southwestern Public Service Company’s Application for Revision of its Retail Rates under Advice Notice No. 245*, Case No. 12-00350-UT, Final Order Partially Adopting Recommended Decision (Mar. 26, 2014).

- (j) grants SPS's variance requests to those subsections of Rule 572 that are now inconsistent with the amended REA;
- (k) grants SPS's permanent variance requests from certain provisions of prior Commission Orders that are now inconsistent with the amended REA; and
- (l) grants all other approvals, authorizations, and relief that may be required for SPS to implement its 2021 RPS Plan.

This Application states the following matters:

I. Jurisdiction and Affected Parties

1. SPS is a New Mexico corporation principally engaged in generating, transmitting, distributing, and selling electrical energy to the public in portions of New Mexico and Texas. SPS is a public utility as defined in the Public Utility Act ("PUA"),⁴ which provides electric service to the public within New Mexico pursuant to the rules, regulations, and tariffs on file with and approved by the Commission.

2. SPS's principal office in New Mexico is located at 111 E. Fifth Street, Roswell, New Mexico 88201. SPS's principal corporate office is located at 790 S. Buchanan, Amarillo, Texas 79101.

3. SPS is a wholly-owned subsidiary of Xcel Energy Inc. ("Xcel Energy"), which is a holding company under Federal Energy Regulation Commission ("FERC") regulations adopted under the Public Utility Holding Company Act of 2005.⁵ Xcel Energy is a utility holding company that owns several electric and natural gas utility

⁴ NMSA 1978, Ch. 62, Arts. 1 – 3, 4, 6, and 8-13; see *Tri-State Generation & Transmission Ass'n v. N.M. Pub. Regulation Comm'n*, 2015-NMSC-013, ¶ 8 n. 1, 347 P.3d 274.

⁵ 18 C.F.R. Part 366.

operating companies, a regulated natural gas pipeline company, and three electric transmission companies.⁶

II. Authorized Representatives and Service of Documents

4. The following corporate representatives and attorneys of SPS should receive all notices, pleadings, discovery requests and responses, and all other documents related to this case:

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⁶ Xcel Energy is the parent company of four wholly-owned electric 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 subsidiary is WestGas InterState, Inc. Through its subsidiary, Xcel Energy Transmission Holding Company, LLC, Xcel Energy also has 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 either currently regulated by the FERC or expected to be regulated by FERC.

III. Notice

5. SPS has prepared the proposed form of Notice to Customers that is attached to the Application, and will serve that Notice and a copy of the RPS filing on the Commission's Utility Division Staff, the New Mexico Attorney General, all parties in SPS's most recent general rate case (Case No. 19-00170-UT), and any renewable resource providers who have requested notice from the Commission, as required by Rule 572.14(D). SPS will also provide notice to customers and the general public as required by 17.1.2.10(C)(1) and (2) NMAC. The proposed form of Notice is attached as Application Exhibit A.

6. A copy of SPS's 2020 RPS Plan approved in Case No. 19-00134-UT, and its proposed 2021 RPS Plan as required by Rule 572.14(D) are also posted on SPS's website at:

https://www.xcelenergy.com/company/rates_and_regulations/filings/new_mexico_renewable_portfolio_standard

IV. Filing Requirements Pursuant to the Amended REA and Requested Variances

7. The ETA, effective June 14, 2019, implemented, among other things, the following changes to the REA:

- a. significantly increased the RPS requirements and added a zero-carbon standard. *See* NMSA 1978, § 62-16-4(A);
- b. amended the definition of reasonable cost threshold ("RCT") in Section 62-16-2(E) to an "average annual levelized cost of sixty dollars (\$60.00) per megawatt-hour at the point of interconnection of the renewable energy resource with the transmission system, adjusted for inflation after 2020";

- c. eliminated former Section 62-16-4(C), which directed the Commission to establish an RCT;
- d. removed the large customer adjustment in Section 62-16-4(A)(2);
- e. removed the diversification requirement in Section 62-16-4(A)(4);
- f. mandated that all renewable energy purchased by a retail customer through an approved voluntary program shall not be used to determine the RPS requirements and shall not be subject to charges by the public utility to recover costs of complying with the RPS requirements (NMSA 1978, § 62-16-7(B) (2) and (3); and
- g. added filing requirements for all RPS filings filed after June 30, 2020 in Section 62-16-4(G).

8. The amended REA states that “[r]easonable and consistent progress shall be made over time toward [the increased RPS and zero-carbon] requirement.” *See* NMSA 62-16-4(A)(6).

9. While the amendments contained in the ETA became effective June 14, 2019, Rule 572 has not yet been amended to reflect and implement the amendments. Therefore, SPS is requesting certain variances to Rule 572. In order to request a variance, Rule 572.21 requires the utility to do the following:

- A. identify the section of this rule for which the exemption or variance is requested;
- B. describe the situation that necessitates the exemption or variance;
- C. set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;
- D. define the result the request will have if granted;
- E. state how the exemption or variance will be consistent with the purposes of this rule;
- F. state why no other reasonable alternative is preferable; and

G. state why the proposed alternative is in the public interest.

10. SPS is requesting variances from the following rule sections:

- a. **Large customer adjustment.** Rule 572.10 and 14(B)(1) and (3), relate to calculation of the RPS requirement and include a reduction to the overall energy sales for the large customer adjustment. This adjustment has been removed from the ETA.
- b. **RCT calculation.** Rule 572.14(C), details the calculation of the Plan Year revenue requirement, particularly the determination of the RCT. However, the RCT has been specifically defined by the amended REA in a manner that is different than that of Rule 572.
- c. **Diversity requirements.** Rule 572.11 defines a diverse RPS portfolio, which is no longer required by the amended REA.

SPS requested variances to these rule sections in Case No. 19-00134-UT.

11. The Commission should grant SPS the requested variances because: (1) the above listed parts of Rule 572 are currently inconsistent with the REA; (2) if the variance requests are not granted, SPS's REA Plan would not be consistent with the REA as amended by the ETA; (3) if these variance requests are granted, SPS's RPS Plan will be consistent with the policy and legal determinations made by the State as set forth in the REA; (4) the variance requests are consistent with Rule 572 as the purpose of that rule is to implement the REA, and these variances allow SPS to implement a plan consistent with the amendments made to the REA by the ETA; (5) until Rule 572 is amended to be consistent with the ETA's amendments to the REA, granting these variance requests are the only option SPS has to follow the policy and legal directives established by the REA; and (6) the legislature has found that the mandates in the REA

meet the public interest, *see* NMSA 1978, 62-16-2, and granting the variances will enable SPS to apply the provisions of the REA as amended by the ETA.

12. SPS also is requesting permanent variances from the following requirements in Commission Orders that are no longer consistent with the amended REA:

- a. In Case No. 13-00222-UT, the Commission required that: (i) commencing with the 2015 Plan Year, SPS must apply the large customer adjustment pursuant to Rule 572 in effect as of the date of the RPS filing; and (ii) SPS shall not make further procurements until its surplus RECs are retired against its RPS requirement or explicitly authorized to expire by the Commission. The first requirement is no longer applicable because the ETA removed the large customer adjustment and SPS requests a permanent variance. Regarding the second requirement, the REA was also amended to allow the utility to make progress toward meeting the increased RPS goals. Although SPS is not seeking resource acquisitions in the proceeding, it is likely to do so in future proceedings, and requests a permanent variance from this requirement.
- b. In Case No. 18-00201-UT, the Commission considered whether all of SPS's RPS-related costs should be recovered through the RPS Rider only or through a combination of the RPS Rider and the fuel and purchased power cost adjustment clause. The issue in that case was whether SPS was accurately calculating and applying the large customer cap. In the Final Order, the Commission determined that "it is reasonable to allow SPS to continue its dual method of recovery until SPS is no longer procuring RECs beyond its RPS compliance requirement in a plan year. This should occur no later than plan year 2025, following the expiration on December 30, 2024 of SPS's Caprock PPA".⁷ SPS requests a permanent variance from this obligation because the large customer cap has been removed from the REA, thus this provision of the Commission's Final Order is no longer applicable.

⁷ See Case No. 18-00201-UT, *In the Matter of Southwestern Public Service Company's Application Requesting: (1) Acknowledgment of its filing of the 2017 Annual Renewable Energy Portfolio Report; (2) Approval of its Annual Renewable Energy Portfolio Procurement Plan for Plan Year 2019; (3) Approval of the Proposed Rate for its 2019 Renewable Portfolio Standard Rider; (4) Approval of its Proposed Treatment of Renewable Energy Certificates Associated with the Sagamore and Hale Wind Facilities; and (5) Other Associated Relief*, Final Order Adopting Recommended Decision (December 12, 2018), Ordering Paragraph 14.

- c. The Final Orders in Case Nos. 04-00334-UT, 05-00354-UT, and 06-00360-UT⁸ require SPS to evaluate non-wind renewable resources available in SPS's service area until the Commission determines that SPS's renewable energy portfolio satisfies the diversity requirement of the REA. However, because the REA was amended to remove the diversity requirements, SPS requests a permanent variance from these requirements.
- d. The Final Order in Case No. 05-00271-UT requires SPS to include in its future renewable energy portfolio reports a "a summary of the nature and level of activities related to the development and implementation of markets for New Mexico RECs, and an account of the progress made in establishing markets for New Mexico RECs." However, because the REA was amended to limit the sale of stand-alone RECs, SPS requests that this requirement be permanently eliminated.

V. SPS's 2019 RPS Report

13. In accordance with the REA, Rule 572.19, and the Final Order in Case No. 05-00271-UT,⁹ SPS's 2019 RPS Report discusses and describes: (a) SPS's renewable energy resource procurements in 2019, including its compliance with the overall RPS requirements and the portfolio diversification requirements under Rule 572; (b) SPS's voluntary renewable energy tariff (*i.e.*, Windsource program activities) for 2019; (c) the approved cost recovery mechanisms for SPS's 2019 RPS-related costs, including an accounting of all collected and deferred amounts; (d) that renewable energy certificates

⁸ Case No. 04-00334-UT, *In the Matter of Southwestern Public Service Company's 2003 Annual Portfolio Report and 2004 Annual Portfolio Procurement Plan Pursuant to the Renewable Energy Act (Laws 2004, Chapter 65)*, Final Order (Dec. 21, 2004); Case No. 05-00354-UT, *In the Matter of Southwestern Public Service Company's Annual Renewable Energy Portfolio Report for 2004, its Application for Approval of the 2005 Annual Renewable Energy Portfolio Plan, and its Evaluation of Non-Wind Renewable Resources Available in its Area*, Final Order Approving Recommended Decision (Dec. 20, 2005); and Case No. 06-00360-UT, *In the Matter of Southwestern Public Service Company's Annual Renewable Portfolio Report for 2005, its Application for Approval of the 2006 Annual Renewable Energy Portfolio Plan, and its Evaluation of Non-Wind Resources Available in its Area*, Final Order Approving Recommended Decision (Dec. 21, 2006).

used for compliance with the RPS are derived from eligible renewable energy resources; (e) how SPS's public claims of renewable energy generation account for RECs that SPS has traded, sold, or transferred; and (f) the development and implementation of markets for New Mexico RECs.¹⁰ Pursuant to 17.9.572.19 NMAC, SPS's 2019 RPS Report is being filed concurrently and is also included as attachment RMS-2 to Ms. Sakya's direct testimony.

VI. SPS's 2020 RPS Filing

14. SPS's 2020 RPS filing for Plan Year 2021 and Next Plan Year 2022 provides the information required by the REA and Rule 572.14.B(1)-(11) related to SPS's compliance with its RPS requirements for the Plan Year and Next Plan Year, and the other matters specified in the REA and Rule 572.

15. SPS's 2020 RPS filing includes its 2021 RPS Plan and supporting testimony, which contains: (a) a calculation of the overall RPS requirements for the Plan Year and Next Plan Year; (b) a description of SPS's existing resources and banked RECs that bring SPS into compliance with the REA's 2021 RPS requirements; (c) projected renewable energy procurement costs for compliance with its Plan Year and Next Plan Year RPS requirements; (d) a comparison of the Filing to SPS's Integrated Resource Plan ("IRP"); and (e) a discussion regarding how the Filing satisfies the requirements of prior Commission orders to the extent they do not conflict with the amended REA.

⁹ Case No. 05-00271-UT, *Petition of Southwestern Public Service Company for the Approval of Renewable Energy Cost Recovery Methodology in Accordance with the Renewable Energy Act*, Final Order on Recommended Decision (Dec. 20, 2005).

16. SPS requests authorization to collect an estimated \$17.3 million in RPS procurement costs over a 12-month period, beginning January 1, 2021, through its RPS Rider approved in Case No. 12-00350-UT. SPS will apply the 2021 RPS Rider using a kilowatt-hour (“kWh”) based rate calculated at \$0.002217 per kWh that will apply to all of SPS’s New Mexico retail rate classes, other than energy purchased under its Solar*Connect rider.

17. SPS requests authorization to return an estimated \$3.4 million for true-up of amounts associated with periods prior to the effective date of the ETA, when the large customer cap was in effect over a 12-month period, beginning January 1, 2021, through its RPS Reconciliation Rider approved in Case No. 19-00134-UT. These true-up amounts are comprised of reconciliation of the 2019 RPS Rider and associated interest. The 2021 rate for the RPS Reconciliation Rider is a credit of \$0.000801 per kWh. The credit is based upon the net true-up of amounts associated with prior periods divided by projected kWh sales to customers other than Large Customers, from January 1, 2021 through December 31, 2021.

18. SPS’s 2019 RPS Report and 2021 RPS Plan satisfy the requirements of the REA, Rule 572, and prior applicable Commission orders, and SPS’s 2020 RPS filing demonstrates that its 2021 RPS Plan is in the public interest.

¹⁰ SPS is requesting a permanent variance from this requirement in future reports.

VII. Application for RPS Incentive

19. Pursuant to NMSA 1978, § 62-16-4 (D), SPS applies to the Commission for a Return on Equity (“ROE”) adder of 30 basis points, to be applied in its next base rate case.

20. Section 62-16-4 (D) of the REA states:

Upon a motion or application by a public utility the commission shall . . . open a docket to develop and provide financial or other incentives to encourage public utilities to produce or acquire renewable energy that exceeds the applicable annual [RPS] set forth in this section; results in reductions in carbon dioxide emissions earlier than required by Subsection A of this section; or causes a reduction in the generation of electricity by coal-fired generating facilities, including coal-fired generating facilities located outside of New Mexico. The incentive may include additional earnings and capital investment opportunities for resources used in furtherance of the outcomes described in this subsection.

21. As explained by Ms. Sakya in her direct testimony, the proposed ROE adder will provide a moderate incentive to encourage SPS to continue to produce or acquire renewable energy that exceeds the applicable annual RPS.

VIII. Compliance with Prior Commission Orders

19. For reasons stated in Section IV, SPS requests a permanent variance from certain requirements in the Final Orders for the following cases: Case Nos. 13-00222-UT, 18-000201-UT, 04-00334-UT, 05-00354-UT, 06-00360-UT, 05-00271-UT.

20. In the Final Order in Case No. 15-00208-UT, the Commission approved a Recommended Decision, which among other items, authorized SPS to modify its Distributed Generation tariffs to align the payment methodology for excess energy with

the Southwest Power Pool's Integrated Marketplace, and required SPS to provide in its annual report the prior year's information showing the monthly excess generation, the average estimated price paid, the actual price, and a reconciliation of the cost on a quarterly basis. This information is provided in Appendix G to the 2019 RPS Report.

IX. Miscellaneous Matters

21. In support of its Application, SPS is concurrently filing the direct testimony of the following three witnesses:

Ruth M. Sakya, whose testimony:

- describes the RPS requirements;
- provides an overview of SPS's RPS requirements under the REA and Rule 572 as it applies to the amended REA¹¹ and of SPS's filing for the 2021 Plan Year, in compliance with Rule 572.14, as well as the 2022 Next Plan Year;
- acknowledges the separate concurrent filing of SPS's 2019 Annual Renewable Energy Portfolio Report in accordance with Rule 572.19;
- presents and supports SPS's requested variances from Rule 572 and certain related provisions of prior Commission orders, which are inconsistent with the REA as amended by the ETA;
- present and support SPS's request for authority to acquire RECs associated with certain PPAs pursuant to which SPS already acquires energy for its New Mexico customers;
- present and support SPS's proposal to assign the unassigned portion (approximately 80 MW) of the Roswell and Chaves PPAs to its New Mexico retail customers and to exercise the associated REC purchase option for meeting the RPS requirements;

¹¹ Rule 572 has not yet been updated to reflect the ETA amendments to the REA and accordingly, SPS has requested variances from these provisions of Rule 572. To the extent that SPS represents that it complies with Rule 572, such representation refers to the sections not impacted by the ETA.

- supports SPS's application for an incentive related to exceeding the RPS requirements;
- present and support SPS's request to update the imputed SunE PPA REC prices;
- presents SPS's RPS Plan, which includes SPS's plan for the Plan Year, including the information and analysis required by Rule 572 and the REA as amended by the ETA in 2019 and, for informational purposes, similar information for the Next Plan Year;
- presents SPS's Plan Year and Next Plan Year projected costs and SPS's request to recover the Plan Year costs, including reconciliation of the 2019 RPS Rider, through SPS's proposed 2021 RPS Rate Rider and SPS's proposed 2021 Reconciliation Rider;
- addresses SPS's compliance with prior Commission orders;
- presents SPS's 2021 Solar*Connect premium, consistent with the Final Order in Case No. 18-00308-UT; and
- presents SPS's requested approvals in this proceeding.

Mr. Ben R. Elsey, whose testimony:

- provides an overview of the Resource Planning process;
- presents SPS's RPS requirements in the 2021 Plan Year and 2022 Next Plan year;
- supports SPS's conclusion that it is able to comply with its 2021 Plan Year and 2022 Next Plan Year RPS requirements:
- presents SPS's RPS projected compliance position through 2030, which is the year that the RPS requirements increase to 50%;
- supports SPS's request to acquire the New Mexico load ratio share of RECs associated with the Bonita, Roswell, Chaves, Mammoth, and Palo Duro PPAs;
- supports SPS's request to acquire the RECs associated with unassigned capacity from the Roswell and Chaves PPAs; and

- demonstrates that the portfolio procurement plan is consistent with the IRP and explains any material differences.

Mr. Richard M. Luth, whose testimony:

- supports SPS's calculation of the 2021 RPS Rider rate; and
- supports SPS's calculation of the 2021 RPS Reconciliation Rider rate.

X. Relief Requested

For the reasons stated above, SPS respectfully requests that the Commission enter a final order that:

- (A) acknowledges SPS's concurrent filing of its 2019 RPS Report;
- (B) approves SPS's 2021 RPS Plan and all components therein;
- (C) approves SPS's proposed rate for its 2021 RPS Rider set forth in Advice Notice No. 288;
- (D) approves SPS's proposed rate for its 2021 Reconciliation Rider set forth in Advice Notice No. 288;
- (E) grants SPS's permanent variance requests from certain provisions of prior Commission Orders that are now inconsistent with the amended REA;
- (F) determines SPS's 2021 RPS Plan complies with the annual filing requirements of Rule 572.14, the REA, and applicable prior Commission orders from which SPS has not requested a variance;
- (G) approves SPS's proposal to exercise its REC purchase options for the New Mexico retail allocation of the Bonita, Roswell, Chaves, Mammoth, and Palo Duro PPAs for RPS compliance purposes;
- (H) approves SPS's proposal to assign the unassigned portion (approximately 80 MW) of the Roswell and Chaves PPAs to its New Mexico retail customers and to exercise the associated REC purchase option for meeting the RPS requirements;
- (I) approves SPS's application for an incentive related to exceeding the RPS requirements;

