

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF SOUTHWESTERN)
PUBLIC SERVICE COMPANY’S)
APPLICATION REQUESTING: (1))
ACKNOWLEDGEMENT OF ITS FILING)
OF THE 2018 ANNUAL RENEWABLE)
ENERGY PORTFOLIO REPORT; (2))
APPROVAL OF ITS ANNUAL)
RENEWABLE ENERGY PORTFOLIO)
PROCUREMENT PLAN FOR PLAN) **CASE NO. 19-00134-UT**
YEAR 2020; (3) APPROVAL OF THE)
PROPOSED RATE FOR ITS 2020)
RENEWABLE PORTFOLIO STANDARD)
RIDER; AND (4) OTHER ASSOCIATED)
RELIEF,)
)
**SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
)
)
) **APPLICANT.**)
_____)****

APPLICATION

In accordance with the Renewable Energy Act (1978 NMSA, §§ 62-16-1 to 62-16-10 (2019) (“REA”), the New Mexico Public Regulation Commission’s (“Commission or NMPRC”) Rule 572 (which governs Renewable Energy for Electric Utilities—17.9.572 NMAC),¹ and the Commission’s Orders in Southwestern Public Service Company’s (“SPS”) previous Renewable Portfolio Standard (“RPS”) cases, SPS requests the Commission enter a final order that:

¹ The Commission granted SPS a variance on June 6, 2019 to allow SPS to file this application on November 1, 2019, rather than July 1 as required by Rule 572.14(A).

- (a) acknowledges SPS's July 31, 2019 filing of its 2018 Annual Renewable Energy Portfolio Report ("2018 RPS Report") required under 17.9.572.19 NMAC;
- (b) approves SPS's 2020 Annual Renewable Energy Act Plan ("2020 RPS Plan")² for the 2020 Plan Year ("Plan Year") and 2021 Next Plan Year³ ("Next Plan Year") under Rule 572.14, and prior Commission Orders related to SPS's Plan Year and Next Plan Year RPS requirements;
- (c) approves SPS's proposed rate for its 2020 RPS Rider.⁴ For rate calculation purposes, SPS assumed RPS Cost Rider revenue based upon the rate in Advice Notice No. 284 for the period January 1, 2020 through April 30, 2020. The proposed rate for its 2020 RPS Rider is based on comparing the estimated recovery from January 1, 2020 through April 30, 2020 to the 2020 RPS-related costs⁵, then determining the amount to be recovered for the period from May 1, 2020 through December 31, 2020.;
- (d) approves SPS's proposed RPS Reconciliation Rider to appropriately credit customers in 2020 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 2018 RPS Rider and associated interest and 2019 costs charged in excess of the large customer cap. For rate calculation purposes, SPS also assumed the RPS Reconciliation Rider will be applied from May 1, 2020 through December 31, 2020;
- (e) grants SPS's variance requests to those subsections of Rule 572 that are now inconsistent with the amended REA;

² The 2020 RPS Plan is provided in the Direct Testimony of Ruth M. Sakya at Attachment RMS-3.

³ In accordance with 17.9.572.14 NMAC, SPS is submitting its 2021 Next Plan Year for informational purposes only.

⁴ 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).

⁵ SPS's RPS-related costs include: (i) SPS's 2020 RPS Plan Year compliance costs; (ii) the reconciliation of SPS's 2018 RPS Rider, including interest; (iii) the annual amortization amounts for the 2013 REC Tracker reconciliation balances, previously approved in Case No. 16-00183-UT, including interest; and (iv) refunds to Qualifying Large Customers resulting from 2019 payments made by Qualifying Large Customers in excess of the cost cap stated in Rule 572.7(M) and returned in 2020.

- (f) grants SPS's variance requests from certain provisions of prior Commission Orders that are now inconsistent with the amended REA;
- (g) grants SPS authority to administer the Hale RECs for NM RPS compliance with the Electric Reliability Council of Texas ("ERCOT") registry system; and
- (h) grants all other approvals, authorizations, and relief that may be required for SPS to implement its 2020 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"),⁶ 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 2005.⁷ Xcel Energy is a utility holding company that owns several electric and natural gas utility

⁶ 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.

⁷ 18 C.F.R. Part 366.

operating companies, a regulated natural gas pipeline company, and three electric transmission companies.⁸

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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⁸ 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 2019 RPS Plan approved in Case No. 18-00201-UT, and its proposed 2020 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).⁹

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;

⁹ This application does not meet all requirements of NMSA 1978, 62-16-4(G) as these are required starting with the July 1, 2020 filing.

- 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.

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 and would risk violating the REA; (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 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".¹⁰ 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.

¹⁰ *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-UT¹¹ 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.

V. SPS's 2018 RPS Report

13. In accordance with the REA, Rule 572.19, and the Final Order in Case No. 05-00271-UT,¹² SPS's 2018 RPS Report discusses and describes: (a) SPS's renewable energy resource procurements in 2018, 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 2018; (c) the approved cost recovery mechanisms for SPS's 2018 RPS-related costs, including an accounting of all collected and deferred amounts; and (d) the development and implementation of markets for New Mexico RECs. Pursuant to 17.9.572.19 NMAC, SPS's 2018 RPS Report was filed on July 31, 2019 and is included as attachment RMS-2 to Ruth Sakya's direct testimony.

VI. SPS's 2019 RPS Filing

¹¹ 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).

¹² 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).

14. SPS's 2019 RPS filing for Plan Year 2020 and Next Plan Year 2021 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 2019 RPS filing includes its 2020 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 2020 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; 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.

16. SPS requests authorization to collect an estimated \$13.8 million in RPS procurement costs through its RPS Rider approved in Case No. 12-00350-UT. SPS calculated the 2020 RPS Rider by assuming that the 2020 RPS Rider Rate will be effective six months from the date of filing, or May 1, 2020. In order to determine the net amount to be recovered over the remaining eight months of 2020, SPS witness Richard M. Luth estimated the RPS Cost Rider revenue based upon the rate in Advice Notice No. 284 for the January 1, 2020 through April 30, 2020 period, and compared that amount to the 2020 RPS Rider revenue requirement provided by SPS witness Ruth M. Sakya (\$13.8 million). The remaining amount was divided by its projected applicable

kWh sales (excluding projected Windsource kWh) for the period of May 1, 2020 through December 31, 2020. The calculated \$.000370 per kWh rate will apply to all of SPS's New Mexico retail rate classes, other than energy purchased under its Windsource rider.

17. SPS requests authorization for an RPS Reconciliation Rider to appropriately credit customers in 2020 for the true-up of amounts associated with prior periods when the large customer cap was in effect. These true-up amounts are comprised of reconciliation of the 2018 RPS Rider and associated interest and 2019 costs charged in excess of the large customer cap. The proposed RPS Reconciliation Rider will apply to customers other than Large Customers as previously defined by Rule 572 prior to the ETA. The 2020 rate for the RPS Reconciliation Rider is a credit of \$0.000195 per kWh. The credit is based upon the net true-up of amounts associated with prior periods (\$0.9 million) divided by projected kWh sales to customers other than Large Customers, from May 1, 2020 through December 31, 2020.

18. SPS's 2018 RPS Report and 2020 RPS Plan satisfy the requirements of the REA, Rule 572, and prior applicable Commission orders, and SPS's 2019 RPS filing demonstrates that its 2020 RPS Plan is in the public interest.

VII. Compliance with Prior Commission Orders

19. For reasons stated in Section IV, SPS requests a 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.

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 DG 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 2018 RPS Report.

VIII. 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, including a summary of the amendments to the REA effectuated by the ETA;
- provides an overview of SPS's RPS requirements under the REA and Rule 572 as it applies to the amended REA¹³ and of SPS's filing for the 2020 Plan Year, in compliance with Rule 572.14, as well as the 2021 Next Plan Year;
- acknowledges the separate filing of SPS's 2018 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;

¹³ 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.

- presents SPS's RPS Plan, which includes SPS's plan for the Plan Year, including the information and analysis required by Rule 572, 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 2018 RPS Rider, through SPS's proposed 2020 RPS Rate Rider and SPS's proposed Reconciliation Rider;
- presents SPS's request to register and administer the Hale wind facility RECs, including the New Mexico-allocated share of the RECs, with ERCOT;
- addresses SPS's compliance with prior Commission orders; and
- presents SPS's requested approvals in this proceeding.

Mr. Ben R. Elsey, whose testimony:

- supports SPS's conclusion that it has sufficient resources (including banked RECs) to comply with its 2020 Plan Year and 2021 Next Plan Year RPS requirements;
- provides an overview of the Resource Planning process;
- explains external challenges facing Resource Planning when acquiring new renewable generation;
- explains how Resource Planning addresses those external challenges;
- presents SPS's RPS requirements in the Plan Year and Next Plan Year; and
- demonstrates that the portfolio procurement plan is consistent with the integrated resource plan ("IRP") and explains any material differences.

Mr. Richard M. Luth, whose testimony:

- supports SPS's calculation of the 2020 RPS Rider rate; and
- supports SPS's proposal and calculation of the RPS Reconciliation Rider.

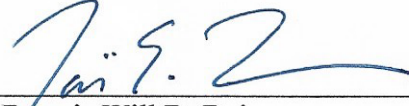
IX. Relief Requested

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

- (A) acknowledges SPS's separate filing of its 2018 RPS Report;
- (B) approves SPS's 2020 RPS Plan and all components therein;
- (C) approves SPS's proposed rate for its 2020 RPS Rider;
- (D) approves SPS's proposed Reconciliation Rider;
- (E) grants SPS's variance requests from certain provisions of prior Commission Orders that are now inconsistent with the amended REA;
- (F) determines SPS's 2020 RPS Plan complies with the annual filing requirements of Rule 572.14 and applicable prior Commission orders from which SPS has not requested a variance;
- (G) approves SPS's request to administer the Hale wind facility RECs with ERCOT in order to establish compliance with the RPS; and
- (H) grants all other approvals, authorizations, and actions that may be required for SPS to implement its 2020 RPS Plan under the REA, Rule 572, and the PUA.

Respectfully submitted,

By: _____


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