

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)	
PUBLIC SERVICE COMPANY'S)	
APPLICATION FOR EXPEDITED: (1))	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY)	
AUTHORIZING CONSTRUCTION AND)	
OPERATION OF A 345 KV TRANSMISSION)	CASE NO. 14-00114-UT
LINE AND ASSOCIATED FACILITIES IN)	
EDDY AND LEA COUNTIES, NEW MEXICO;)	
(2) APPROVAL OF THE LOCATION OF THE)	
345 KV TRANSMISSION LINE; (3))	
DETERMINATION OF RIGHT OF WAY)	
WIDTH AND (4) AUTHORIZING ACCRUAL)	
OF AN ALLOWANCE FOR FUNDS USED)	
DURING CONSTRUCTION FOR THE)	
TRANSMISSION LINE AND ASSOCIATED)	
FACILITIES,)	
)	
SOUTHWESTERN PUBLIC SERVICE)	
COMPANY,)	
)	
APPLICANT.)	

CERTIFICATION OF STIPULATION

In accordance with 1.2.2.20(A)(5)(b) NMAC, Frances I. Sundheim, Hearing Examiner in this case, submits this Certification of Stipulation ("Certification") to the New Mexico Public Regulation Commission ("Commission") concerning the Uncontested Stipulation ("Stipulation") entered into by Southwestern Public Service Company ("SPS"), the Utility Division Staff of the Commission ("Staff"), the New Mexico Attorney General ("NMAG"), Occidental Permian, Ltd. and URENCO USA d/b/a Louisiana Energy Services LLC ("LES") (collectively, "the Signatories") that was filed with the Commission on October 22, 2014. A copy of the Stipulation is attached to this Certification as Exhibit 1.

The Hearing Examiner has concluded, after a careful review of the evidence presented in this case that the Uncontested Stipulation is in the public interest, resolves all issues in the case, and recommends that the Commission approve the Stipulation as proposed in this Certification. The Hearing Examiner recommends that the Commission adopt the following Statement of the Case, Discussion, Findings and Conclusions, and Decretal Paragraphs.

I. STATEMENT OF THE CASE

In accordance with Sections 62-9-1, 62-9-3, 62-9-3.2 and 62-9-6 of the New Mexico Public Utility Act (NMSA 1978, §§ 62-3-1 *et seq.*, “PUA”), and Commission Rules 17.1.2.9 NMAC and 17.9.592 NMAC (“Rule 592”), on April 22, 2014, SPS filed its Application and supporting pre-filed testimony requesting that the Commission grant the following relief: (1) issue a certificate of public convenience and necessity (“CCN”) authorizing SPS to construct and operate the described 345 kilovolt (“kV”) transmission line and associated substation facilities in Eddy and Lea Counties, New Mexico (“Proposed Project”); (2) approve the location for the proposed 345 kV transmission line and associated substation facilities; (3) determine that a 150-foot right-of-way (“ROW”) width for the 345 kV transmission line is appropriate; and (4) authorize SPS to accrue an allowance for its funds used during construction (“AFUDC”) for the transmission line and associated facilities.

In support of the Application, SPS concurrently filed the Direct Testimony of Roland C. Azcarraga, Scott G. Morris, Jason F. Brunner, and Howard C. Higgins.

On May 1, 2014, NMAG filed its Motion for Leave to Intervene and Request for Discovery, which was not opposed by SPS and was granted by the Hearing Examiner on August 8, 2014.

On May 14, 2014, the Commission issued its Order Commencing Proceeding and Designating Hearing Examiner to consider SPS's Application and designated Frances I. Sundheim to preside as the Hearing Examiner in this case, to take all action necessary within the limits of the Hearing Examiner's authority, to conduct necessary hearings and to take any other action necessary consistent with Commission procedure.

On May 15, 2014, the Hearing Examiner issued an Order setting a pre-hearing conference for May 22, 2014.

On May 22, 2014, a pre-hearing conference was held that was attended either in person or telephonically by representatives from SPS, the NMAG, and Staff to determine the procedural schedule in the case.

On May 27, 2014, the Hearing Examiner issued a Procedural Order that: (1) established June 9, 2014, as the deadline for SPS to publish a Notice of Hearing in newspapers of record in the counties where the transmission line is located; (2) established June 30, 2014, as the deadline for filing motions for leave to intervene; (3) established July 11, 2014, as the deadline for SPS to file supplemental direct testimony regarding the status of federal, state, and private permits or easements for the Proposed Project; (4) established August 8, 2014 as the deadline for filing of any protest to SPS's Application; (5) established August 11, 2014, as the deadline for filing Staff and Intervenor direct testimony; (6) established August 21, 2014, as the deadline for filing rebuttal testimony; and (7) scheduled a hearing on the merits to commence on September 15,

2014, continuing if necessary on September 16, 2014, for the purpose of receiving evidence, arguments, and any other appropriate matters to determine whether the relief requested in SPS's Application should be granted. The Procedural Order also acknowledged that if no protest is filed within sixty (60) days after publication of Notice of this case, the Commission may approve without a formal hearing SPS's request for a CCN and its related request for location approval. However, if no protest is filed, SPS shall provide notice of the hearing set for September 15, 2014, to the land owner(s) whose property may be taken for the ROW of the proposed transmission line in accordance with Section 62-9-3.2(D) of the PUA.

On June 10, 2014, SPS filed its Notice of Filing of Affidavits of Publication for the *Carlsbad Current-Argus* (published May 30, 2014) and the *Hobbs News-Sun* (published May 31, 2014).

On June 25, 2014, LES filed its Motion for Leave to Intervene and Request for Discovery, which was not opposed by SPS and was granted by the Hearing Examiner on August 8, 2014.

On July 1, 2014, OPL filed its Motion for Leave to Intervene and Request for Discovery, which was not opposed by SPS and was granted on August 8, 2014. OPL also filed a Motion for Admission of Katherine Coleman to Appear Pro Hac Vice, which was denied without prejudice by the Hearing Examiner on August 5, 2014, for failure to comply with Rules Governing the New Mexico Bar, Rule 24-106 (Practice by Non-admitted Lawyers).

On July 7, 2014, SPS filed a Notice of Withdrawal and Substitution of Counsel and Motion to Modify the Official Service List notifying the Commission and the Hearing Examiner of the withdrawal of Jerry F. Shackelford as counsel for SPS, and substituting Stephen Fogel as

counsel for SPS. SPS also filed a Motion for Admission of Stephen Fogel to Appear Pro Hac Vice. SPS's Motion was also denied without prejudice by the Hearing Examiner on August 5, 2014, for failure to comply with Rule 24-106.

On July 11, 2014, SPS filed the Supplemental Direct Testimony of Roland C. Azcarraga, Scott G. Morris, and Howard C. Higgins addressing the status of federal, state, and private ROW permits and/or easements and other matters related to SPS's request for issuance of a CCN and location approval.

On August 8, 2014, OPL filed its: (1) Protest to SPS's Application and (2) Unopposed Motion to Extend the Procedural Schedule and Request for Expedited Ruling for an extension of the deadline for filing of direct testimony by Staff and Intervenors, or in the alternative a stipulation, from August 11, 2014 to August 25, 2014, and also an extension of the deadline for filing rebuttal testimony, or in the alternative testimony in support of a stipulation, from August 21, 2014 to September 8, 2014.

On August 11, 2014, the Hearing Examiner issued an Amended Procedural Order extending the requested deadlines.

On August 25, 2014, NMAG filed the Direct Testimony of Doug Gegax and Staff filed the Direct Testimony of Jack D. Sidler.

Also on August 25, 2014, the Hearing Examiner accepted, on a provisional basis, OPL's Motion for Entry of Protective Order and Supporting Legal Authority ("Motion for Protective Order") and the Direct Testimony of Joseph De Almeida. The confidential, un-redacted version of Mr. De Almeida's direct testimony was provided to representative of SPS and Staff who had signed a confidentiality agreement with OPL on August 25, 2014. NMAG representatives

signed a confidentiality agreement on September 5, 2014, and were provided an un-redacted version that same day.

On August 26, 2014, the Hearing Examiner, via an email, directed OPL to file additional legal support regarding its request for a protective order, its inclusion of confidential information in the Direct Testimony of Joseph De Almeida, and other matters related to the United States Bureau of Land Management (“BLM”) ROW permit for SPS’s proposed transmission line located on BLM lands. The Hearing Examiner established August 29, 2014, as the deadline for OPL to submit the requested briefing, and September 4, 2014, as the deadline for any party to reply.

On August 29, 2014, OPL filed its Supplemental Brief and Motion for Entry of Protective Order and Supporting Legal Authority (“Supplemental Brief”). Subsequently SPS requested, without opposition, that the Hearing Examiner extend the September 4, 2014, deadline for filing responses to OPL’s Supplemental Brief to September 8, 2014.

On September 4, 2014, SPS filed an Unopposed Motion to Amend the Procedural Order and Request for Expedited Action requesting that the Hearing Examiner: (1) abate the deadline for filing rebuttal testimony and responses to OPL’s Supplemental Brief; (2) vacate the hearing scheduled for September 15-16, 2014; and (3) schedule a pre-hearing conference on September 16, 2014, to discuss and address re-establishing deadlines for filings, setting a hearing, and to consider other pending matters.

On September 5, 2014, the Hearing Examiner issued an Order Granting Unopposed Motion to Amend Procedural Order extending the requested deadlines, vacating the hearing, and scheduling a second pre-hearing conference as requested.

On September 16, 2016, a second pre-hearing conference was held that was attended either in person or telephonically by representatives from SPS, the NMAG, OPL, LES, and Staff to determine a revised procedural schedule in the case.

On September 18, 2014, SPS filed its Renewed Motion for Admission of Stephen Fogel to Appear Pro Hac Vice in accordance with Rule 24-106, which was granted on September 19, 2014.

On September 23, 2014, the Hearing Examiner issued a Second Procedural Order that: (1) established September 26, 2014, as the deadline for OPL to provide to all parties its suggested alternate ROW route for the portion of the proposed transmission line crossing BLM lands; (2) established October 1, 2014, as the deadline for SPS to advise the other parties whether OPL's suggested ROW route is acceptable; (3) established October 8, 2014, as the deadline for SPS and OPL to meet with the BLM to determine whether OPL's suggested alternate ROW route is acceptable to the BLM and advise the other parties of BLM's position; (4) indicated that if the alternate ROW route is acceptable to the BLM, scheduled a settlement meeting on October 10, 2014; (5) established October 22, 2014 as the deadline for filing a uncontested stipulation, or alternatively SPS supplemental testimony regarding the BLM ROW permit and other pertinent matters; (6) established October 31, 2014, as the deadline for filing testimony in support of a stipulation, or alternatively, testimony responding to SPS's supplemental testimony; (7) established November 5, 2014, as the deadline for filing any rebuttal testimony; and (8) scheduled the hearing on the merits to commence on November 7, 2014, for the purpose of receiving evidence, arguments, and any other appropriate matters to determine

whether the relief requested in SPS's Application, as initially filed or as modified by a stipulation, should be granted.

On October 22, 2014, the Signatories filed the Stipulation.

On October 23, 2014, SPS filed its Affidavit of Mailing Notice of Hearing to affected land owners in accordance with Section 62-9-3.2(D) of the PUA.

On October 30, 2014, Staff filed direct testimony in support of the Stipulation prepared by Jack D. Sidler.

On October 31, 2014, SPS filed direct testimony in support of the Stipulation prepared by John S. Fulton and Howard C. Higgins.

On November 3, 2014, SPS filed an Affidavit regarding the availability of copies of SPS's Application and associated filings in the case at Lovington, Carlsbad, and Hobbs public facilities in accordance with Rule 592.13.

On November 7, 2014, the public hearing on the Stipulation was held. The following appearances were entered at the hearing:

For SPS

Jeffrey L. Fornaciari, Esq.
Stephen Fogel, Esq.

For LES

Joan Drake, Esq.

For OPL

Germaine Chappelle, Esq.

For NMAG

P. Cholla Khoury, Esq.

For Staff

Julie Park, Esq.

During the hearing, the following pre-filed testimony of SPS and Staff witnesses was presented subject to cross examination, and that testimony was admitted into the record by the Hearing Examiner:

For SPS:

- (a) Direct Testimony in Support of Uncontested Stipulation of John S. Fulton (SPS Exhibit 1);¹ and
- (b) Direct Testimony in Support of Uncontested Stipulation of Howard C. Higgins (SPS Exhibit 2);²

For Staff:

- (c) Direct Testimony in Support of Uncontested Stipulation of Jack D. Sidler (Staff Exhibit 2).³

Additionally, based on the Signatories' agreement concerning admission into evidence of SPS, NMAG, and Staff pre-filed testimony, the testimony identified below was admitted into the record at the hearing:

¹ Transcript of proceeding held on November 7, 2014 ("Tr.") at 11.

² Tr. at 23.

³ Tr. at 30.

For SPS:

- (a) Direct Testimony of Roland C. Azcarraga (SPS Exhibit 3);
- (b) Supplemental Direct Testimony of Roland C. Azcarraga (SPS Exhibit 4);
- (c) Direct Testimony of Jason F. Brunner (SPS Exhibit 5);
- (d) Direct Testimony of Scott G. Morris (SPS Exhibit 6);
- (e) Supplemental Direct Testimony of Scott G. Morris (SPS Exhibit 7);
- (f) Direct Testimony of Howard C. Higgins (SPS Exhibit 8); and
- (g) Supplemental Direct Testimony of Howard C. Higgins (SPS Exhibit 9);⁴

For NMAG:

- (a) Direct Testimony of Doug Gegax (NMAG Exhibit 1);⁵ and

For Staff:

- (f) Direct Testimony of Jack D. Sidler (Staff Exhibit 1).⁶

During the hearing, OPL moved to withdraw from the case record the Direct Testimony of Joseph De Almeida, as well as its Motion for Protective Order and Supplemental Brief, in accordance with the Signatories' agreement in Section 6.4 of the Stipulation. OPL's motion was granted by the Hearing Examiner and the parties who received a confidential version of OPL's testimony were directed to return the copies to OPL's counsel.⁷

At the conclusion of the hearing, the Hearing Examiner conferred with the parties and Staff and established November 24, 2014, as the deadline for filing a proposed certification of stipulation.⁸

⁴ Tr. at 7.

⁵ Tr. at 9.

⁶ Tr. at 9.

⁷ Tr. at 33.

⁸ Tr. at 34.

On November 13, 2014, the transcript of the November 7, 2014, hearing was filed with the Commission.

On November 24, 2014, the Signatories filed their Notice of Filing the Proposed Certification of Stipulation, which includes their agreement to waive the right to file exceptions in this case if the Hearing Examiner's Certification recommends Commission adoption and approval of the Stipulation without significant modifications to the agreements in the Stipulation.

II. DISCUSSION

A. Signatories' Agreements in Stipulation

The Stipulation contains the Signatories' agreements to settle all issues in the case, and to recommend that the Commission grant the following relief requested in SPS's Application, as modified by the Stipulation:

(1) issue a CCN authorizing SPS to construct and operate the Proposed Project (*see* Section 1);

(2) approve the location of the proposed 345 kV transmission line and associated substation facilities, including the minor adjustments to a portion of the route (*see* Section 2);

(3) approve the initial operation of the line at 230kV (*see* Section 1.2) and

(4) determine that a 150-foot ROW width for the 345 kV transmission line is necessary and appropriate (*see* Section 3); and

(5) authorize SPS to accrue AFUDC on its funds used for construction of the transmission line and associated facilities (Subsection 1.3).

The Stipulation also includes: (1) the Signatories' acknowledgement that SPS's Application does not request Commission approval of ratemaking principles and treatment for

the estimated costs for the Proposed Project, and their agreement that such ratemaking determination should be reserved for a future SPS general rate case (*see* Section 4); and (2) SPS's agreement to file the compliance filings recommended by Staff (Section 5).

The following sections of this Certification provide the factual and legal bases for the Signatories' request that the Commission approve the Stipulation and grant the relief requested in SPS's Application, as modified by the Stipulation. In this regard, these sections discuss: (a) the applicable legal standards for Commission review and approval of uncontested stipulations under the PUA, Rule 592, and 17.1.2.9 NMAC; (b) the evidence in the record that supports the Commission granting the approvals requested in the Stipulation; and (c) a section-by-section analysis of the Stipulation.

B. Commission Standards Governing Review and Approval of Uncontested Stipulations

The Commission has a well established policy permitting the filing and approval of uncontested stipulations, which is based on "the strong public policy favoring the settlement of disputes to avoid costly and protracted litigation" and the recognition that "a cooperative approach may be more effective in reconciling the interests of all the parties than would the polarization which often accompanies adversarial proceedings."⁹ For the Commission to approve a Stipulation, it must be fair, just, reasonable, and in the public interest¹⁰ and the

⁹ Case No. 2567, Final Order at 17, quoting *Re Public Service Company of New Mexico*, 110 PUR4th 69, 84 (NMPSC Case No. 2087, 1990) and *New Mexico Industrial Energy Consumers v. New Mexico Public Serv. Comm'n*, 104 N.M. 565, 568 (1986). *See also*, *Attorney General of the State of New Mexico v. New Mexico Public Serv. Comm'n*, 111 N.M. 636, 640, 808 P.2d 606, 610 (1991) ("*AG v. NMPSC*") ("a cooperative approach in reconciling the interests of the parties was consistent with the public policy favoring settlement of disputes").

¹⁰ *In the Matter of the Applications of Public Service Company of New Mexico and New Mexico Gas Company, Inc. for the Abandonment, Purchase and Sale of Gas Utility Assets and Services*, Case No. 08-00078-UT, Certification of Stipulation, p.31 (*citing AG v. NMPSC*, 111 N.M. at 640).

Commission's rule governing stipulations recognizes "the proponents of the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to allow the Commission to approve it."¹¹ The Commission also applies the following criteria when reviewing the reasonableness of stipulated settlements:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a whole, benefit customers and the public interest?
3. Does the settlement, as a whole, violate any important regulatory principle or practice?¹²

As discussed in the following sections of this Certification, the Stipulation filed in this case meets each of these criteria. First, the Stipulation is the result of compromise and negotiation among diverse, sophisticated and knowledgeable parties, who were represented by counsel in the case.¹³ Second, as demonstrated below, there is substantial evidence in the record that establishes the Stipulation benefits customers and is in the public interest, and also demonstrates that the Stipulation, taken as a whole, does not violate any important regulatory principle or practice.

C. Legal Standards that Apply to SPS's Filing under the PUA and Rule 592

The PUA requires public utilities to obtain a CCN before constructing or operating any public utility plant or system.¹⁴ In determining whether any CCN shall issue, the Commission

¹¹ 1.2.2.20.A(3) NMAC.

¹² NMPUC Case No. 2453, Certification of Stipulation at 10; NMPSC Case No. 2087, Final Order at 85 (quoting with approval *In re Cleveland Electric Illuminating Co.*, 99 PUR4th 407, 449 (Ohio PUC 1989)).

¹³ See SPS Exhibit 1 at 4.

¹⁴ NMSA 1978, § 62-9-1(A).

shall give due regard to public convenience and necessity.¹⁵ The PUA authorizes the Commission to issue a CCN as requested, to refuse to issue a CCN, or to issue it for the construction or operation of a portion only of the contemplated project, and may attach to a CCN such terms and conditions consistent with the PUA that the Commission deems are required.¹⁶ The “public convenience and necessity” standard implies a net public benefit.¹⁷ In prior cases, the Commission has equated the “public convenience and necessity” with the public interest.¹⁸ The Commission may approve applications without a formal hearing if no protest is filed within 60 days of the date notice of the application is given.¹⁹

Section 62-9-3 of the PUA requires public utilities to obtain location approval as a prerequisite for the construction of transmission lines and associated substation facilities in New Mexico that are designed for, or capable of operation at 230 kV or more. No approval is required for additions to or modifications to existing transmission lines and associated substation facilities.²⁰ Section 62-9-3(F) of the PUA states that the Commission shall approve an application for the location of transmission lines and associated facilities, unless it finds that the proposed facilities will unduly impair important environmental values.²¹ In determining whether a proposed transmission line would unduly impair important environmental values, the Commission may consider: (a) existing plans of the state, local government and private entities

¹⁵ NMSA 1978, §§ 62-9-1(A) and 62-9-6.

¹⁶ *Id.*

¹⁷ *Re Valle Vista Water Utility Co.*, 212 P.U.R. 4th 305, 309 (2001); *see also* Recommended Decision in Case No. 12-00027-UT (Jun. 20, 2012), approved in Final Order, Case no. 12-00027-UT (Jul. 3, 2012).

¹⁸ *Re Public Serv. Co.*, 119 P.U.R. 4th 48, 50 (1990), *aff'd*, *Public Serv. Co. of N.M. v. New Mexico Pub. Serv. Comm'n*, 112 N.M. 379, 815 P.2d 1169 (1991).

¹⁹ NMSA 1978, § 62-9-1(C).

²⁰ NMSA 1978, § 62-9-3(D).

²¹ NMSA 1978, § 62-9-3(F).

for other development at or in the vicinity of the proposed location; (b) fish, wildlife, and plant life; (c) noise emission levels and interference with communications signals; (d) the proposed availability of the location to the public for recreational purposes, consistent with safety considerations and regulations; (e) existing scenic areas, historic, cultural or religious sites and structures, or archeological sites, at or near the vicinity of the proposed location; (f) additional factors that requires consideration under applicable federal and state law pertaining to the location.²² Section 62-9-3(G) also states that an application shall not be approved if it violates a state, county, or municipal land use statutory or administrative regulation unless the commission finds that the regulation is unreasonably restrictive and compliance with the regulation is not in the interest of the public convenience and necessity.²³ Further, the Commission may approve applications without a formal hearing if no protest is filed within 60 days of the date notice of the application is given.²⁴

Section 62-9-3.2 of the PUA applies to transmission lines that require a ROW width greater than 100 feet. This Section requires utilities to obtain a Commission determination that the width greater than 100 feet is necessary to construct and maintain the proposed transmission line, and provides that applications for ROW width determination shall set forth the facts involved that shall be acted on by the Commission after a public hearing.²⁵ The utility shall also

²² NMSA 1978, § 62-9-3(M).

²³ NMSA 1978, § 62-9-3(G).

²⁴ NMSA 1978, § 62-9-3(K).

²⁵ NMSA 1978, §§ 62-9-3.2(C) and (E).

provide notice of the time and place of the hearing to all property owners and occupants by first class mail at least 20 days prior to the hearing.²⁶

In addition to the foregoing statutes, Commission Rules 17.1.2.9 NMAC and Rule 592 apply to CCN filings for transmission lines. Rule 17.1.2.9 is the general rule that governs CCN application notice requirements. Rule 592 sets forth the following requirements for applications requesting location approval of transmission lines and associated facilities with voltages at or above 230 kV: (1) a description of the proposed project; (2) identification of all applicable land use statutes and administrative regulations; (3) if required under the National Environmental Policy Act (“NEPA”), either an Environmental Assessment (“EA”) or Environmental Impact Statement (“EIS”) and Record Decision or Finding of No Significant Impact (“FONSI”), prepared in connection with the transmission line; or if neither an EA or EIS is required under NEPA, then a report comparable to an EIS (in the required format); (4) federal, state, and local environmental authorizations necessary to construct and operate the transmission line; (5) testimony demonstrating that the proposed transmission line will not unduly impair important environmental values; (6) the expected date that the transmission line will be online; (7) proof that the application has been served on all local authorities in each county and township where the transmission line will be located, and also on the NMAG, the New Mexico Environment Department, and the New Mexico State Engineer; and (8) any other information, including photographs, which the applicant wishes to submit in support of the application.²⁷

²⁶ NMSA 1978, §§ 62-9-3.2(D).

²⁷ See Rule 592.10.

D. Stipulated Agreements Regarding Approval of SPS's Request for a CCN, Location Approval, and ROW Width Determination

The following subsections evaluate the agreements in the Stipulation related to the Signatories' conclusion that SPS's filing, as modified by the Stipulation, satisfies the approval requirements of the PUA and Rule 592 for issuance of a CCN, location approval, and ROW width determination for the Proposed Project. These subsections briefly describe the legal requirements and evidentiary matters that support SPS's request for relief in this case, and the provisions in the Stipulation that recommend that the Commission should grant those requested approvals.

i. Description of Proposed Project

In its filing, SPS proposes to construct a 345 kV transmission line connecting the proposed Roadrunner Substation to SPS's existing Potash Junction Substation, with a projected construction completion date of October 31, 2015. SPS proposes to operate the transmission line at 230 kV specifications until approximately May 31, 2018, when the Kiowa Substation is constructed and energized, and thereafter (beginning approximately June 1, 2018), SPS will operate the line at 345 kV specifications.²⁸

SPS's initial total estimated cost for the Proposed Project was approximately \$54 million, but as will be explained in Section D (v) below, because of health and safety adjustments to the ROW route agreed to by the Signatories, SPS currently estimates an additional \$730,000 in transmission line construction costs. Accordingly, SPS's revised estimated total cost for the Proposed Project is approximately \$54.7 million.²⁹ The estimated cost includes \$1.08 million in

²⁸ Recital B.1; *see* SPS Exhibit 3 at 17-18.

²⁹ SPS Exhibit 1 at 9-10; Staff Exhibit 2 at 9.

AFUDC, which was calculated for each element of the Proposed Project and the total AFUDC is a percent of the estimated cost. AFUDC is an allowance for the return on the capital costs of construction financing³⁰ that is an eligible expense to be included in the final project cost.³¹

ii. Determination of Need for the Proposed Project

In relation to SPS's request for a CCN, SPS's filing establishes that the Proposed Project will serve the transmission needs of SPS's existing and new retail load in southeastern New Mexico, and the project will enhance the reliability of its southeastern New Mexico transmission system by reducing potential overload and low voltage conditions on the system.³² SPS's need for the Proposed Project is supported by the following studies conducted by the Southwest Power Pool ("SPP") and SPS.

The SPP conducted several studies addressing the need for the proposed transmission line project, and has concluded that there is a need for new transmission facilities in order to improve reliability in southeastern New Mexico. In the Integrated Transmission Planning Study for the Near-Term Period, 2014-2019 ("ITPNT"),³³ the SPP identified the following reliability issues for SPS's southeastern New Mexico transmission system: (1) the overload of the Potash Junction Substation 230/115 kV, 150 MVA transformer for loss of the Pecos Substation-Potash Junction 230 kV transmission line; and (2) the overload of the Monument Substation-West Hobbs Switching Station 115 kV transmission line for loss of the Maddox Plant-Sanger Switching

³⁰ See Staff Exhibit 1 at 17 (citing Hahne and Aliff, *Accounting for Public Utilities*, 2007).

³¹ SPS Exhibit 3 at 20.

³² See SPS Exhibit 3 at 6.

³³ SPS Exhibit 3 at 11.

Station 115 kV transmission line.³⁴ On February 19, 2014, based on the ITPNT, the SPP issued to SPS a Notice to Construct (“NTC”) for the Proposed Project. (“February 2014 NTC”).³⁵

A second SPP study (Delivery Point Network Study DPA-2011-June-073) addressed a specific request from a new potash mining customer for service on SPS’s 115 kV transmission system in its southeastern New Mexico service area, and that study concluded there would be significant impacts on SPS’s southeast New Mexico transmission system due to the addition of the new 80 MW potash mine load.³⁶ Accordingly, the SPP recommended that SPS construct transmission facilities to mitigate overloads and voltage violations.³⁷

SPS’s Transmission Planning Department also conducted a study of the impact of the new mining load in southeastern New Mexico, which identified the need for several projects in order to mitigate thermal and voltage violations during system intact and single contingency events created by the new load.³⁸ Consequently, the studies performed by both the SPP and SPS agree on the recommended development of the Proposed Project.³⁹

Subsequent to the issuance of the February 2014 NTC, the SPP completed a third study, the High Priority Incremental Load Study (“HPILS”). The HPILS determined that a 345 kV transmission line and substation would be required by June 1, 2018, to serve SPS’s existing, new, and expanding loads in the Lea and Eddy County, New Mexico areas, as well as to

³⁴ SPS Exhibit 3 at 12.

³⁵ SPS Exhibit 3 at 12-13; Attachment RCA-4.

³⁶ SPS Exhibit 3 at 11.

³⁷ SPS Exhibit 3 at 13; Attachment RCA-3.

³⁸ SPS Exhibit 3 at 14-15; Attachment RCA-5.

³⁹ SPS Exhibit 3 at 15.

maintain SPS's transmission reliability in those areas.⁴⁰ The SPP determined in the HPILS that the proposed 230 kV transmission facilities should be converted to 345 kV specifications by June 1, 2018, and on May 19, 2014, the SPP issued another NTC to SPS identifying three network upgrades related to the conversion of the Potash Junction-Road Runner transmission facilities to 345 kV ("May 2014 NTC").⁴¹

Based on the determinations in the SPS and the SPP studies, SPS proposes to build the transmission line at 345 kV, but to initially operate the transmission line at 230 kV because it is needed to meet the February 2014 NTC and serve the retail load service request. Until additional 345 kV infrastructure is in place (*i.e.*, estimated to be May 2018, when the Kiowa Substation is constructed and energized), the 230 kV source at Potash Junction Substation is the only viable source available to meet the area reliability requirements and the customer in-service date requirement for the proposed retail mining load addition to the SPS transmission grid.⁴² Further, the proposed HPILS projects will add 345 kV infrastructure projects in the next three years to the service area, which include adding 345 kV terminations at the Potash Junction Substation and the conversion of the Proposed Project to 345 kV systems. Building the transmission line at 345 kV now is more cost effective than converting from 230 kV to 345 kV later and takes advantage of economies of scale and scope.⁴³

iii. Stipulated Agreements Recommending Commission Issuance of a CCN for the Proposed Project

⁴⁰ SPS Exhibit 4 at 5; Attachment RCA-SUPP-1.

⁴¹ SPS Exhibit 4 at 5-6; Attachment RCA-SUPP-2.

⁴² SPS Exhibit 3 at 17; Tr. at 13.

⁴³ SPS Exhibit 3 at 17-18.

Section 1 of the Stipulation reflects the Signatories' agreements concerning SPS's request for Commission issuance of a CCN authorizing SPS to construct and operate the Proposed Project. In Subsection 1.1 of the Stipulation, the Signatories agree that SPS's filing establishes that construction and operation of the Proposed Project will satisfy the public convenience and necessity of SPS's New Mexico retail customers by serving the transmission needs of SPS's existing and new retail loads, as well as enhancing the reliability of SPS's southeastern New Mexico transmission system. This Subsection is supported by the testimony filed by SPS witness John S. Fulton and Roland C. Azcarraga, and Staff witness Jack D. Sidler. SPS witness Fulton explains that the Proposed Project is needed to serve SPS's existing and expanding New Mexico retail loads in southeastern New Mexico, and to increase reliability of SPS's southeastern New Mexico transmission system by reducing potential overload and low voltage conditions.⁴⁴ The need for the Proposed Project is also supported by the transmission studies conducted by SPS and the SPP described earlier, which identified SPS's near-term need for new transmission facilities to improve transmission system reliability in southern New Mexico and addressed specific customer requests for expanded service on SPS's existing transmission system in its southeast New Mexico service area.⁴⁵

Subsection 1.2 of the Stipulation includes the Signatories' agreements regarding the reasonableness and cost effectiveness of SPS's proposal to construct the proposed transmission line at 345 kV specification (with a projected construction completion date in October 2015) and to operate the system at 230 kV specifications until the Kiowa Substation is constructed and

⁴⁴ SPS Exhibit 1 at 8; *see also* NMAG Exhibit 1 at 4 and Staff Exhibit 1 at 12-13; *see also* Tr. at 31.

⁴⁵ SPS Exhibit 1 at 8; *see also* Staff Exhibit 1 at 12-13.

energized, and to then operate the transmission line at 345 kV specifications beginning on approximately June 1, 2018. As demonstrated above, SPS's filing shows that SPS's existing and projected New Mexico retail loads will require 230 kV transmission service during the period October 2015 through May 2018, and that its projected new and expanded loads will require 345 kV transmission service beginning in approximately June 2018, and thereafter.⁴⁶

SPS and Staff testimony support SPS's proposal to build a new transmission line at the 345 kV level and operate it at the 230 kV level explaining that such an approach is prudent from an economic, engineering, and operational standpoint because the 345 kV level service will be needed within approximately two and one-half years (June 2018) of the initial operation of the Proposed Project.⁴⁷ As further explained by Staff witness Sidler, because a 345 kV line can be operated at 230 kV, but not vice versa, and given the short time period before 345 kV level service is required in SPS's southeastern New Mexico service area, it is more economical to build the Proposed Project at 345 kV specifications now, rather than having to replace a 230 kV transmission line at a later time when 345 kV level service is needed.⁴⁸

In Subsection 1.3, the Signatories agree to support SPS's request for authorization to accrue AFUDC on its funds used for the construction of the Proposed Project. Further, this Subsection acknowledges that the reasonableness of the costs associated with the Proposed Project, including any amounts accrued for AFUDC, will be determined at the completion of the Proposed Project and be addressed in a future SPS general rate case.⁴⁹

⁴⁶ SPS Exhibit 1 at 9; Tr. at 13.

⁴⁷ SPS Exhibit 1 at 9 (citing SPS Exhibit 3 at 17-18; SPS Exhibit 4 at 6); Staff Exhibit 1 at 13.

⁴⁸ Tr. at 30-31.

⁴⁹ See SPS Exhibit 1 at 10; SPS Exhibit 3 at 20; Staff Exhibit 1 at 18-19.

Based on the foregoing matters, the Signatories agree in Subsection 1.4 that SPS's CCN filing complies with and satisfies the requirements of Sections 62-9-1 and 62-9-6 of the PUA for issuance of a CCN, and, therefore, they recommend that the Commission should grant a CCN authorizing SPS to construct and operate the Proposed Project as set forth in SPS's Application.⁵⁰

iv. Description of Requested Location of Proposed Project

The proposed 345 kV transmission line will be located in Eddy and Lea Counties, New Mexico, and will extend approximately 40.3 miles from the proposed Roadrunner Substation, to be located northwest of Jal, to SPS's Potash Junction Substation, located northeast of Carlsbad. In this regard, the 345 kV transmission line will cross approximately 29 miles of federal land managed by the BLM, 10.3 miles of state owned land managed by the New Mexico State Land Office ("NMSLO"), and one mile of private land owned by Mark and Annette McCloy.⁵¹

SPS has obtained ROW permits/easements from the BLM, the NMSLO, and the McCloys authorizing SPS to construct and maintain the proposed 345 kV transmission line on their respective lands. With respect to state lands, the NMSLO issued to SPS a renewable, 35-year, 150-foot ROW width easement to SPS authorizing SPS to construct, operate, and maintain the 345 kV transmission line on non-contiguous parcels of land owned by the state.⁵² For the private lands, SPS obtained a non-exclusive, perpetual, 150-foot ROW easement from the McCloys, the only private land owner impacted by the transmission line route.⁵³ In relation

⁵⁰ SPS Exhibit 1 at 7-10; Staff Exhibit 2 at 4 and 16; Tr. at 13-14 (Fulton) and 31-32 (Sidler).

⁵¹ SPS Exhibit 2 at 4 and Attachment HCH-STIP-1; *see also* Staff Exhibit 2 at 6; Tr. at 24-25.

⁵² SPS Exhibit 2 at 8-9; *see also* SPS Exhibit 9 at Attachment HCH-SUPP-2; Tr. at 26-27.

⁵³ SPS Exhibit 2 at 9; *see also* SPS Exhibit 7 at Attachment SGM-SUPP-1.

to the federal lands managed by the BLM, SPS, OPL, and the BLM entered into discussions to address potential health and safety issues raised by OPL, which involved a small portion of the selected ROW route identified in the EA (“EA ROW Route”) that crosses federal lands subject to OPL’s oil and gas leases with the BLM. To address these health and safety issues, OPL proposed minor adjustments to the EA ROW Route that were accepted by SPS and the BLM. Subsequently, the BLM determined that the adjustments could be accomplished through administrative action with no additional study required, and, therefore, the BLM executed and issued to SPS *Right-of-Way Grant NM-130582* (“BLM ROW Grant”).⁵⁴ The BLM ROW Grant has a renewable, 30-year term, and grants to SPS a 150-foot ROW to construct, operate, maintain, and terminate the 345k kV transmission line across several non-contiguous parcels of federal land.⁵⁵

v. *Analysis of Environmental Impacts of the Proposed Project*

In relation to SPS’s compliance with Section 62-9-3 of the PUA and Rule 592, SPS retained TRC Environmental Corporation (“TRC”) to prepare an Environmental Assessment (“EA”) for the Proposed Project in accordance with the requirements of NEPA.⁵⁶ SPS, in consultation with TRC, examined existing land use constraints and transportation and utility ROWs in the area to establish preliminary alternative ROW routes for the proposed transmission line for consideration in the EA.⁵⁷ Under the direction of the BLM, TRC analyzed impacts on the environmental, cultural, biological, geological, water, and visual resources that were located

⁵⁴ See SPS Exhibit 9 at Attachment HCH-STIP-3.

⁵⁵ SPS Exhibit 2 at 7-8.

⁵⁶ See Rules 592.10(C)–(E).

⁵⁷ SPS Exhibit 2 at 5 (citing SPS Exhibit 6 at 5-7).

within the various proposed alternative ROW routes discussed in the EA.⁵⁸ The cultural resource studies included a 100 percent pedestrian survey of the proposed ROW by a team of trained archaeologists; the biological surveys included both a 100 percent inspection of the ROW by a trained biologist, and more intensive surveys in areas identified by the BLM for the presence of sensitive cacti; the geological survey included in-depth examination of areas along the ROW identified by the BLM karst specialist and a senior TRC geologist for the presence of cave openings and sensitive karst; and the visual study included a visit with accompanying photo-documentation from selected vantage points along the ROW by the BLM visual specialist and a TRC visual impact expert.⁵⁹

Based on the EA analyses, the BLM determined the optimal route for the Proposed Project (*i.e.*, EA ROW Route), and the BLM issued its proposed Finding of No Significant Impact (“FONSI”) for public comment on May 10, 2014. The FONSI determined that the selected EA ROW Route would not have any significant impact, individually or cumulatively, on the quality of the human environment.⁶⁰ After publishing notice of the EA and the proposed FONSI, and receiving no comments or objections to either, the BLM issued its final FONSI and Decision Record approving the EA ROW Route on July 3, 2014.

As explained by SPS witness Higgins, the studies associated with the EA indicate the proposed transmission line would have minimal environmental impacts and would be within the acceptable range for facilities of this type.⁶¹ In this regard, the EA examined the factors

⁵⁸ SPS Exhibit 8 at 9; *See also* Tr. at 20-21.

⁵⁹ SPS Exhibit 8 at 8-9, *See also* Tr. at 21.

⁶⁰ *See* Exhibit 9 at Attachment HCH-SUPP-1.

⁶¹ SPS Exhibit 2 at 5 (citing SPS Exhibit 8 at 7-13).

considered by Section 62-9-3(M) of the PUA, and concluded that the Proposed Project would have short-term, low level impacts on air due to tailpipe emissions from construction and maintenance vehicles, and particulate emissions due to fugitive dust, during construction and transmission line maintenance. In addition, there could be moderate effects on land use due to permanent removal from use of a minor amount of rangeland in the footprint of the structures, compaction of soil and short term limitation on aircraft operations during construction. The visual character of the area will be altered by the addition of the additional transmission lines in the viewscape, and there could be possible effects on previously unknown cultural and/or paleontological resources in the study area. The EA further found that there could be a small effect upon sensitive biological species, and the effects on mineral resources are expected to be minimal. The EA also does not expect any effects on the paleontology, climate, or wetlands. Finally, the EA expected there would be a positive effect on socioeconomics in the area as a result of the Proposed Project.⁶² Accordingly, the EA concluded that the Proposed Project will not unduly impair any important environmental values.⁶³

vi. *Stipulation Agreements Recommending Location Approval for Proposed Project*

Section 2 of the Stipulation contains the Signatories' agreements that SPS has satisfied the requirements for location approval in accordance with Section 62-9-3 of the PUA and Rule 592.10. Subsection 2.1 discusses the Signatories' agreement that the minor health and safety adjustments to the transmission line route reflected in the BLM ROW Grant are acceptable, and Subsections 2.2 and 2.3, constitute their agreement to recommend approval of the location of the

⁶² SPS Exhibit 8 at 9-10.

⁶³ SPS Exhibit 2 at 10 (citing SPS Exhibit 8 at 5-13 for a more thorough discussion of the EA's findings, conclusions, and recommendation and Attachment HCH-1(CD)).

Proposed Project. The following discussion will first address Subsections 2.2 and 2.3, and will conclude with a discussion of Subsection 2.1.

In Subsections 2.2 and 2.3, the Signatories agree that: (1) SPS has complied with, and satisfied, the applicable requirements of Section 62-9-3 of the PUA and Rule 592.10; and (2) because the Proposed Project will not unduly impair any important environmental values, they recommend that the Commission approve and authorize the location of the proposed 345 kV transmission line and associated substation facilities. SPS witness Higgins explains that SPS's filing meets all of the statutory and regulatory requirements of Section 62-9-3 of the PUA and Rule 592. In regards to the requirements under the PUA, the factors considered by the Commission in determining whether a project will unduly impair important environmental values (*see* Section 62-9-3(M) of the PUA) are all addressed as part of the EA analysis performed by TRC, including an examination of: Climate and Air Quality; Land Use and Recreation; Visual Resources; Cultural Resources; Biological, Earth, and Water Resources (including Paleontology); and Socioeconomics. For each of these areas, the EA considered the nature of the current environment which would be affected, focusing upon existing conditions, and the environmental consequences (impacts) the Proposed Project would have, and based on this analyses, the EA concluded that the Proposed Project will not unduly impair important environmental values.⁶⁴

In meeting the filing requirements of Rule 592.10, SPS's Application and supporting direct testimony provide a comprehensive description of the Proposed Project, including but not limited to, the identity of all land owners impacted by the proposed transmission line, a

⁶⁴ SPS Exhibit 2 at 10.

description of the interconnection facilities, and schematic diagrams showing the transmission line and its interconnection to the transmission grid (Rule 592.10(A) and (I)).⁶⁵ SPS's initial filing also identifies and demonstrates compliance with all applicable land use statutes and administration regulations impacting the Proposed Project (Rule 592.10(B)),⁶⁶ and as discussed earlier, SPS's filing includes the EA, as required by NEPA, which determined that the Proposed Project will not unduly impair any important environmental values (*see* Rule 592.10(C)-(E)).⁶⁷ In addition, as represented in SPS's Application and as reflected in the certificate of service filed on April 22, 2014, SPS has served a copy of its filing on all local authorities in Eddy and Lea Counties, the NMAG, the New Mexico Environment Department, and the New Mexico State Engineer in accordance with Rule 592.10(J).⁶⁸

In relation to the requirements of Rule 592.10(F) and (G) concerning the necessary federal, state, and local environmental authorizations, as discussed earlier, SPS has obtained the BLM ROW Grant and easements from the NMSLO and the sole private land owner in accordance with Rule 592.10(F) and (G) and all of these authorizations have been filed with the Commission.⁶⁹ As memorialized in Subsection 2.1, the Signatories' agree that the minor adjustments to the transmission line route reflected in the BLM ROW Grant are acceptable.

Accordingly, based on these matters, the Stipulation concludes that SPS's filing complies with Section 62-9-3 and Rule 592.10, and that the filing demonstrates that the Proposed Project will not unduly impair any important environmental values. Therefore, the Signatories

⁶⁵ SPS Exhibit 2 at 11 (citing SPS Exhibit 6 at 9-11 and SPS Exhibit 5 at 5-8).

⁶⁶ SPS Exhibit 2 at 11.

⁶⁷ SPS Exhibit 2 at 12.

⁶⁸ SPS Exhibit 2 at 13 (referencing ¶ 14 of Application).

⁶⁹ SPS Exhibit 2 at 12-13.

recommend that the Commission grant location approval of the proposed 345 kV transmission line and associated substation facilities.

vii. Description of SPS's Request for ROW Width Determination

SPS's filing states that the transmission line will require a 150-foot ROW width, 75 feet on either side of the centerline in order to comply with the National Electric Safety Code ("NESC").⁷⁰ As specified in the NESC, the ROW width must be sufficient for the proposed transmission line which incorporates a basic phase spacing of 27 feet for 345 kV design. The horizontal displacement of the 795 kcmil ACSS bundled conductors due to a six-pound per square foot wind loading on a 900-foot span, along with the applicable safety clearances will be contained within the boundaries of this ROW easement. The proposed 150-foot ROW width also allows for flexibility during design and construction allowing spans to be longer than 900 feet and phase spacing wider than 27 feet as necessary without violating NESC requirements or the general safety of the public.⁷¹

viii. Stipulated Agreements Recommending Approval of ROW Width Determination

In Section 3 of the Stipulation, the Signatories agree that SPS's request for a Commission determination that a 150-foot ROW width is necessary for SPS to construct and maintain the proposed 345 kV transmission line and associated facilities. In support of Subsection 3.1 of the Stipulation, SPS witness Fulton explains that a proposed 150-foot ROW width is necessary in order to comply with Rule 234 A-2, B-1 and G of the NESC, as well as to provide adequate

⁷⁰ SPS Exhibit 5 at 5; Tr. at 14.

⁷¹ SPS Exhibit 5 at 5-6; Tr. at 14.

access for maintenance of the transmission line.⁷² Further, as to the ROW permits and easements obtained by SPS for the Proposed Project, Section 3.2 of the Stipulation confirms that the BLM, the NMSLO, and Mark and Annette McCloy, have given a 150-foot ROW width grant or easement to SPS for the portions of the transmission line route on their respective lands.⁷³

In Subsection 3.3, the Signatories agree that SPS has complied with the filing and notice requirements of Section 62-9-3.2 of the PUA. SPS witness Fulton testified that SPS's filing contains sufficient facts supporting the need for a ROW width greater than 100 feet and documents SPS's compliance with the notice requirements of Section 62-9-3.2 of the PUA.⁷⁴

Finally, in Subsection 3.4, the Signatories agree that SPS's filing demonstrates its compliance with all requirements of Section 62-9-3.2 of the PUA. Accordingly, the Stipulation recommends that the Commission should determine that a 150-foot ROW width for the 345 kV transmission line and associated substation facilities is necessary.⁷⁵

ix. Signatories Agreement that Ratemaking Principles and Treatment are not Requested in SPS's Filing and Should be Reserved for a Future SPS General Rate Case

SPS's filing does not request any determination of ratemaking principles and treatment in this case, and states that such ratemaking matters will be addressed in a future SPS general rate case.⁷⁶ However, SPS's filing provided an illustrative example of the projected cost allocation between SPS and other members of the SPP to show potential jurisdictional allocations that

⁷² SPS Exhibit 1 at 13; Tr. at 14; *see also* Staff Exhibit 1 at 9-10 (which addresses Staff's agreement that 150-foot ROW width is necessary).

⁷³ SPS Exhibit 1 at 12; Tr. at 14.

⁷⁴ 1978 NMSA §§ 62-9-3.2(C) and (D); SPS Exhibit 1 at 12 (Mr. Fulton explains that SPS mailed notice of the date and time of the public hearing to be held in this case on November 7, 2014, to the BLM, the NMSLO, and Mark and Annette McCloy, and thereafter filed its *Affidavit of Notice of Hearing* on October 23, 2014).

⁷⁵ SPS Exhibit 1 at 13.

⁷⁶ SPS Exhibit 4 at 7-8; *see also* Tr. at 15.

could be made in a future SPS New Mexico retail rate case.⁷⁷ Although, Staff, the NMAG and LES disagree with using the SPP's Byway cost allocation and offered comments regarding the assignment and allocation of costs associated with the Proposed Project, they agree with SPS that the assignment and allocation of costs associated with the Proposed Project is not at issue in this case and should be decided in a future SPS general rate case.⁷⁸

In Section 4 of the Stipulation, the Signatories agree to defer and reserve the Commission's determination of the ratemaking principles and treatment of the costs of the Proposed Project until a future SPS general rate case. Subsections 4.1 and 4.2 constitute the Signatories' acknowledgment that SPS's filing does not request a Commission determination of the ratemaking principles and treatment for the costs associated with the Proposed Project in this case (Subsection 4.1), along with their agreement that these matters should be considered in a future SPS general rate case.⁷⁹

In Subsection 4.3, the Signatories agree that in a future general rate case, the Commission is not bound to automatically pass through to SPS's New Mexico retail customers any specified share of the total costs of the Proposed Project that the SPP allocates to the SPS zone, and the Signatories further agree to reserve their right(s) in future SPS general rate case(s) to argue their respective position(s) regarding the SPP's cost-sharing plan for the Proposed Project and the resulting allocation to SPS's New Mexico retail customers.⁸⁰

x. Stipulated Compliance Filing Requirements for SPS

⁷⁷ SPS Exhibit 1 at 14 (citing Azcarraga Supplemental Direct at 7-8).

⁷⁸ See Recital G; see e.g., NMAG Exhibit 1 at 7; Staff Exhibit 1 at 14-15.

⁷⁹ SPS Exhibit 1 at 14; Staff Exhibit 2 at 10; see also SPS Exhibit 4 at 7; Staff Exhibit 1 at 9; NMAG Exhibit 1 at 4-5.

⁸⁰ SPS Exhibit 1 at 15.

As a basis for granting approval of the relief requested in SPS's Application, Staff recommended that SPS should be required to provide the following information: (1) copies of all final required construction permits associated with the Proposed Project within two weeks of receipt of those permits; (2) the actual costs associated with the Proposed Project in this case, as soon as the information becomes available; and (3) notice of the date(s) that the Proposed Project is placed in service.⁸¹ In Section 5 of the Stipulation, the Signatories agree that SPS shall make one or more compliance filings to provide the information specified by Staff in the requested timeframe.⁸²

E. Analysis of the Specific Provisions of the Stipulation

The Stipulation memorializes the Signatories' agreements recommending the Commission enter an order that: (1) issues a CCN authorizing SPS to construct and operate the Proposed Project; (2) approves the location of the proposed 345 kV transmission line and associated facilities, as modified by the Stipulation; (3) determines that the proposed 150-foot ROW width for the transmission line is appropriate; (4) authorizes SPS to accrue AFUDC for the Proposed Project; (5) reserves, for a future SPS general rate case, a determination regarding the ratemaking principles and treatment for recovery of the costs associated with the Proposed Project; and (6) requires SPS to comply with Staff's recommended compliance filing obligations. The following subsections briefly summarize each section of the Stipulation and establish that the Stipulation is a fair, just, and reasonable resolution of all issues in the case, it is in the public interest, and therefore, it should be approved by the Commission.

⁸¹ Staff Exhibit 1 at 19.

⁸² SPS Exhibit 1 at 17; Staff Exhibit 2 at 14.

Section 1 – Agreement to Support Commission Issuance of a CCN for the Proposed Project

Section 1 of the Stipulation addresses the Signatories' agreements related to the Commission's issuance of a CCN authorizing SPS to construct and operate the Proposed Project. In Subsection 1.1 of the Stipulation, the Signatories agree that SPS has demonstrated that the construction and operation of the Proposed Project will satisfy the public convenience and necessity of SPS's New Mexico retail customers by serving the transmission needs of existing and new retail load in southeastern New Mexico, and enhance the reliability of SPS's southeastern New Mexico system by reducing potential overload and low voltage conditions on SPS's southeastern transmission system. In addition, the Signatories agree that SPS's proposal to construct the transmission line at 345 kV specification (with a projected construction completion date in October 2015), but to operate the system at 230 kV specifications until the Kiowa Substation is constructed and energized (projected to occur approximately May 31, 2018), and to operate the transmission line at 345 kV specifications, thereafter (beginning on approximately June 1, 2018), is reasonable and cost effective.

Subsection 1.3 represents the Signatories' support of SPS's request for AFUDC, and their acknowledgement that the reasonableness of the costs associated with the Proposed Project, including AFUDC, should be addressed in a future SPS general rate case filing. Finally, in Subsection 1.4, the Signatories agree that SPS has satisfied the filing requirements of Section 62-9-1 and 62-9-6 of the PUA, and therefore recommend that the Commission grant a CCN to SPS for the Proposed Project.

Section 2 – Agreements to Support Commission Location Approval for the Proposed Project

SPS's request for location approval of the 345 kV transmission line and associated facilities under Section 62-9-3 of the PUA is addressed in Section 2 of the Stipulation. Subsection 2.1 reaffirms the Signatories' agreement that the minor adjustments to the proposed transmission line route on BLM lands as reflected in the ROW grant issued by the BLM are acceptable (*see also* Recital I). The Signatories also acknowledge that SPS's filing complies with the application requirements of Rule 592.10 and satisfies the applicable provisions and requirements of Section 62-9-3 of the PUA that concern the Commission's determination of whether the proposed transmission line and associated facilities will unduly impair any important environmental values (Subsection 2.2). Accordingly, in Subsection 2.3, the Signatories agree that the Proposed Project will not unduly impair any important environmental values, and therefore the Signatories recommend that the Commission approve and authorize the location of the proposed transmission line and associated facilities.

Section 3 – Agreement to have the Commission Determine that a 150-foot ROW Width is Necessary for Proposed Project

Section 3 represents the Signatories agreement related to SPS's request for a Commission determine that a 150-foot ROW width is necessary for SPS to construct and maintain the proposed 345 kV transmission line and associated facilities. In Subsection 3.1, the Signatories' agree that the proposed 150-foot ROW width is necessary to comply with Rule 234 A-2, B-1 and G of the National Electric Safety Code. The Signatories also acknowledge that SPS has received a 150-foot ROW grant or easement from the BLM, the NMSLO, and the only private land owner whose land is crossed by the 345 kV transmission line (Subsection 3.2). In regards to filing and

notice requirements, Subsection 3.3 reflects the Signatories agreement that SPS's Application and supporting testimony contain all of the information required for the Commission to make the ROW width determination as specified in Section 62-9-3.2(C) of the PUA and that SPS has provided notice by mail to the BLM, NMSLO, and the private land owner whose property is crossed by the transmission line in accordance with Section 62-9-3.2(D) of the PUA. Finally, Subsection 3.4 reflects the Signatories' recommendation that the Commission determine that a 150-foot ROW width for the proposed transmission line is necessary in accordance with Section 62-9-3.2 of the PUA.

Section 4 – Agreements Regarding Deferral of the Ratemaking Principles and Treatment of the Costs of Proposed Project

Section 4 addresses the Signatories' agreements regarding the ratemaking principles and treatment of the estimated costs of the Proposed Project. In Subsection 4.1, the Signatories affirm that SPS's Application is not requesting a Commission determination regarding the ratemaking principles and treatment for the Proposed Project as allowed by Section 62-9-1(B) of the PUA, and that the Signatories support the Commission issuing a final order that reserves, for a future SPS general rate case, the Commission making its determination(s) regarding the ratemaking principles and treatment that will apply to the recovery of the New Mexico retail portion of the costs associated with the Proposed Project (Subsection 4.2). Finally, Subsection 4.3 addresses the Signatories' agreement that the Commission will not be bound to automatically pass any specific share of the total costs of the Proposed Project that are allocated by the SPP to the SPS zone through to SPS's New Mexico retail customers, and that the Signatories reserve all

rights regarding any position taken concerning the proposed cost allocation and New Mexico retail ratemaking treatment of the Proposed Project.

Section 5 – Staff’s Recommendation for Compliance Filings

Section 5 reflects SPS’s agreement to comply with Staff’s recommendations regarding compliance filings in this case. Specifically, SPS agrees to file in one or more compliance filings: (1) copies of all final, required construction permits associated with the Proposed Project within two weeks of receipt of those permits; (2) the actual costs associated with the Proposed Project in this case, as soon as the information becomes available; and (3) notice of the date(s) that the Proposed Project is placed in service.⁸³

Section 6 – General Agreements

Section 6 reflects the general agreements between the Signatories’ that give effect to the Stipulation. Subsection 6.1 reflects the Signatories’ agreement that they will support and use their best efforts to obtain Commission approval of the Stipulation. In Subsection 6.2 the Signatories agree that the Stipulation is the result of negotiation, compromise, settlement and accommodation, and that the Stipulation resolves all issues concerning the relief requested in SPS’s Application. Subsection 6.3 reflects the Signatories’ agreement that the Stipulation is in the public interest and should be approved and accepted by the Commission in that the Stipulation represents a fair, just and reasonable resolution of all issues related to SPS’s filing,

⁸³ SPS Exhibit 1 at 17.

including the adjustments to the proposed transmission ROW on BLM lands, and is consistent with the provisions and requirements of the PUA and Commission rules.⁸⁴

In Subsection 6.4, the Signatories agree to the admission into the evidentiary record of this case, SPS's pre-filed direct and supplemental testimony, and Staff and NMAG's direct testimony, and SPS and Staff's testimony filed in support of the Stipulation. The Signatories also agree that the initial testimony offered by OPL shall be withdrawn from the case record and that the Motion for Protective Order and supporting brief shall also be withdrawn.⁸⁵

Subsection 6.5 reflects the Signatories agreement that the terms and conditions in the Stipulation are interdependent and the various provisions of the Stipulation are not severable and that none of the provisions of the Stipulation shall become fully operative unless the Commission shall have entered a final order approving the Stipulation. The Signatories agree that if the Commission issues a final order inconsistent with the terms of the Stipulation, each Signatory has the right to withdraw from the Stipulation, and to thereafter submit testimony and obtain a hearing and advocate any position it deems appropriate with respect to any issue in the Stipulation. The Signatories further agree that the Stipulation does not resolve any claims, issues, or proceedings pending in or pertaining to other jurisdictions.

Subsection 6.6 reflects the Signatories' agreement that there are no third-party beneficiaries of this Stipulation and that Commission approval of the Stipulation will not establish a precedent for other SPS cases.⁸⁶

⁸⁴ SPS Exhibit 1 at 17-18.

⁸⁵ SPS Exhibit 1 at 18.

⁸⁶ SPS Exhibit 1 at 18.

Subsection 6.7 reflects that the Stipulation is binding on and will benefit the successors and assigns of the Signatories. Subsection 6.8 contains the Signatories' agreements that the Stipulation is binding on the Signatories only for the purpose of settling the issues in this case, does not establish a precedent for other SPS cases, and is limited to the specific matters referred to in the Stipulation. The Signatories also support the Commission granting the waivers, variances, and approvals that are determined to be necessary for SPS to implement and comply with the approved Stipulation and the modifications to its Application (Subsection 6.9). Finally, Subsection 6.10 allows the Signatories to execute the Stipulation in multiple counterparts, and use telefax or PDF signatures, each of which will be deemed an original and will constitute the same document.⁸⁷

III. CONCLUSIONS REGARDING STIPULATION

The record in this case demonstrates that SPS's filing satisfies the statutory and regulatory requirements that are prerequisites for the Commission granting the approvals/authorizations requested in SPS's Application, as modified by the Stipulation. The record establishes that: (1) the public convenience and necessity requires SPS to construct and operate the Proposed Project in order to serve its existing and new retail loads in SPS's southeastern New Mexico service area in accordance with Sections 62-9-1 and 62-9-6 of the PUA; (2) the proposed location for the 345kV transmission line route and associated facilities, as adjusted by the Stipulation, complies with, and satisfies, the requirements of Section 62-9-3 of the PUA and Rule 592; (3) a 150-foot ROW width for the proposed 345 kV transmission line is

⁸⁷ SPS Exhibit 1 at 18.

necessary (Section 62-9-3.2 of the PUA); and (4) SPS request for authorization to accrue AFUDC on its funds used for construction of the Proposed Project is reasonable.

The record also establishes that the Stipulation meets each of the criteria for Commission approval of uncontested stipulations. First, the Stipulation is the result of arms-length negotiations among parties with diverse interests and each of the parties was represented by capable and knowledgeable counsel and advisors.⁸⁸ Second, the record shows that the Stipulation is fair, just, and reasonable and in the public interest.⁸⁹ In this regard, the Stipulation resolves all issues in the case without the need for further litigation, saves the parties and the Commission the time and expense that would be required to litigate the issues, and advances the interests of administrative efficiency. Third, there is nothing in the record to suggest that the Stipulation violates any important regulatory principle or practice. To the contrary, the Stipulation, viewed as a whole, is consistent with sound regulatory policy and this Commission's approach to the issues presented.

Based on these matters, the Hearing Examiner concludes that the Stipulation is in the public interest, and provides a reasonable basis for the Commission to approve SPS's Application, as modified by the Stipulation. Accordingly, the Hearing Examiner recommends that the Commission should approve the Stipulation and grant the relief requested in SPS's Application, as modified by the Stipulation.

IV. FINDINGS, CONCLUSIONS, AND DECRETAL PARAGRAPHS

The Hearing Examiner recommends the Commission **FIND AND CONCLUDE** as

⁸⁸ SPS Exhibit 1 at 4; Staff Exhibit 2 at 4.

⁸⁹ SPS Exhibit 1 at 4; Staff Exhibit 2 at 4 and 16-17.

follows:

1. All findings of fact and conclusions of law contained in the Statement of the Case and Discussion above are adopted as Findings of Fact and Conclusions of the Commission.

2. SPS is a public utility as defined by NMSA 1978, § 62-3-3(G) and its New Mexico retail service is subject to the jurisdiction of the Commission under the Public Utility Act, NMSA 1978, § 62-1-1 *et seq.*

3. Reasonable, proper, and adequate notice of SPS's Application has been provided in accordance with NMSA 1978, § 62-9-3.2(D), Rule 17.1.2.9 NMAC, and Rule 592.15.

4. The Stipulation is a fair, just, reasonable compromise and settlement of the issues in the case, complies with and satisfies the requirements of the PUA and the Commission's rules and regulations, it is supported by substantial evidence in the record and is in the public interest, and, therefore, the Stipulation should be approved and adopted as provided by this Certification.

5. The public convenience and necessity requires, or will require, SPS to construct and operate the Proposed Project, as set forth in the Application, and, therefore, SPS's request for a CCN should be granted.

6. The location of the route for 345 kV transmission line and associated substation facilities (*i.e.*, Roadrunner Substation and Potash Junction Substation) complies with, and satisfies, the requirements of NMSA 1978, § 62-9-3 and Rule 592, and, therefore, SPS's request for location approval of the proposed 345 kV transmission line and associated substation facilities should be approved.

7. SPS's request for authorization to accrue AFUDC on its funds used for the construction of the Proposed Project is reasonable and should be granted; however, no

ratemaking principles and treatment of the estimated costs for the Proposed Project will be determined in this case and those ratemaking matters should be deferred and reserved for a determination in a future SPS general rate case. The approximate cost for the Project, including the route modification is \$54.7 million.

8. Staff's recommended compliance filings are reasonable and should be adopted by the Commission.

The Hearing Examiner recommends the Commission **ORDER** that:

A. The findings, conclusions, rulings and determinations made and construed herein are hereby adopted and approved as the findings, conclusions, rulings and determinations of the Commission.

B. The Stipulation is approved and adopted in its entirety and will govern the resolution of all issues in Case No. 14-00114-UT. A copy of the Stipulation is attached to this Certification of Stipulation as Exhibit 1 and is incorporated into this Certification of Stipulation for all purposes.

C. SPS is granted a CCN authorizing it to construct and operate the Proposed Project, as provided in this Certification.

D. SPS is granted location approval of the proposed 345 kV transmission line and associated substation facilities, as modified by the Stipulation and provided in this Certification,

E. A 150-foot ROW width is determined to be necessary for SPS's construction and operation of the Proposed Project.

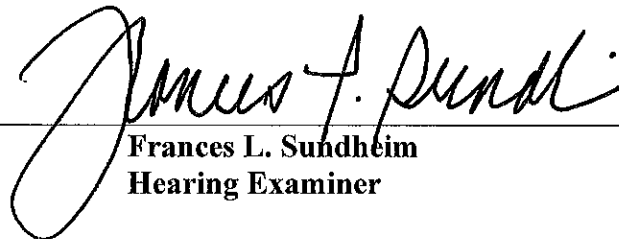
F. SPS is authorized to accrue AFUDC on its funds used for the construction of the Proposed Project; however, no ratemaking principles and treatment of the estimated costs for the

Proposed Project are determined in this case and those ratemaking matters shall be deferred and reserved for a determination in a future SPS general rate case.

- G. SPS shall make the compliance filings specified in Section 5 of the Stipulation.
- H. This order is effective immediately.
- I. Copies of this Order shall be sent to all persons on the attached Certificate of Service.
- J. This Docket shall be closed after SPS's filing of the compliance items as required by this Order.

ISSUED at Santa Fe, New Mexico, this 4th day of December, 2014.

NEW MEXICO PUBLIC UTILITY COMMISSION

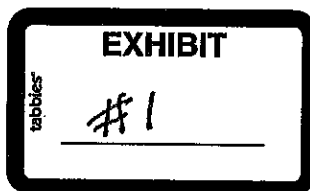


Frances L. Sundheim
Hearing Examiner



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22 October 2014

HAND-DELIVERED

Melanie Sandoval, Bureau Chief
Records Division
New Mexico Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501

Re: Southwestern Public Service Company
NMPRC Case No. 14-00114-UT

Dear Ms. Sandoval:

The attached document is the signed Uncontested Stipulation ("Stipulation") among the parties in this case. Counsel for Occidental Permian, Ltd. is awaiting client approval and, thus, has not yet signed the Stipulation, but expects to be able to file a signed signature page by the end of the week.

Sincerely,

Stephen Fogel
COUNSEL FOR SOUTHWEST PUBLIC SERVICE COMPANY

cc: all persons on the service list

NEW MEXICO
PUBLIC REGULATION
COMMISSION
FILED
2014 OCT 22 PM 4:30

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)
PUBLIC SERVICE COMPANY'S)
APPLICATION FOR EXPEDITED: (1))
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)
AUTHORIZING CONSTRUCTION AND)
OPERATION OF A 345 KV TRANSMISSION)
LINE AND ASSOCIATED FACILITIES IN)
EDDY AND LEA COUNTIES, NEW MEXICO;)
(2) APPROVAL OF THE LOCATION OF THE)
345 KV TRANSMISSION LINE; (3))
DETERMINATION OF RIGHT OF WAY)
WIDTH AND (4) AUTHORIZING ACCRUAL)
OF AN ALLOWANCE FOR FUNDS USED)
DURING CONSTRUCTION FOR THE)
TRANSMISSION LINE AND ASSOCIATED)
FACILITIES,)
SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
APPLICANT.)

CASE NO. 14-00114-UT

2019 OCT 22 PM 4 30

NEW MEXICO
COMMISSION
FILED

UNCONTESTED STIPULATION

In accordance with the New Mexico Public Regulation Commission ("Commission") Rules of Procedure, Rule 1.2.2.20(A) NMAC, Applicant, Southwestern Public Service Company ("SPS"), the Utility Division Staff ("Staff") of the Commission, the New Mexico Attorney General ("NMAG"), Occidental Permian, Ltd. ("OPL"), and URENCO USA d/b/a/ Louisiana Energy Services LLC ("LES") (collectively, the "Signatories") have entered into this Uncontested Stipulation ("Stipulation") as the basis for recommending that the Commission enter an order approving the relief requested in SPS's Application, as modified by this Stipulation.

RECITALS

The Signatories acknowledge and affirm the following matters:

A. SPS's Application and supporting direct testimony filed on April 22, 2014 request the following action by the Commission: (1) issue a certificate of public convenience and necessity ("CCN"), in accordance with Sections 62-9-1 and 62-9-6 of the Public Utility Act (NMSA 1978, §§ 62-3-1 *et seq.*, "PUA"), that authorizes SPS to construct and operate a 345 kilovolt ("kV") transmission line and associated facilities in Eddy and Lea Counties, New Mexico, which will extend from the proposed Roadrunner Substation, located northwest of Jal to SPS's Potash Junction Substation, located northeast of Carlsbad ("Proposed Project"); (2) approve the location of the proposed 345 kV transmission line and associated facilities in accordance with Section 62-9-3 of the PUA and Rule 592.10; (3) make a determination that the 150-foot right-of-way ("ROW") width for the proposed 345 kV transmission line is necessary in accordance with Section 62-9-3.2 of the PUA; and (4) authorize SPS to accrue an allowance for funds used during construction ("AFUDC") of the transmission line and associated facilities.

B. The following matters are explained in SPS's initial filing:

(1) The 345 kV transmission line will initially be operated at 230 kV voltage until such time as there will be a 345 kV source available at the Kiowa Substation (currently projected to be in June 2018), and thereafter the transmission line will be operated at 345 kV voltage.

(2) The proposed 345 kV transmission line will extend over and cross approximately 40 miles of lands, of which approximately 28.7 miles is on federal land managed by the United States Bureau of Land Management ("BLM"), 10.3 miles is on state owned land managed by the New Mexico State Land Office ("NMSLO"), and one mile is on privately owned land (all of which is owned by one private land owner). In accordance with Rule 592.10(F), SPS is required to obtain a ROW grant from the BLM and easements from the NMSLO and the private land owner.

(3) SPS's initial estimated cost of the Proposed Project is approximately \$54 million (total company), including an estimated \$1.08 million for AFUDC.

C. Before the initial filing with the Commission, SPS filed an application with the BLM for a ROW grant and sought easements from the NMSLO and the private land owner whose land the proposed transmission line crosses. On March 30, 2014, the private land owner executed a 150-foot ROW easement to SPS for the proposed transmission line. On April 29, 2014, the NMSLO granted to SPS a 150-foot Right-of-Way Easement No. R-33963 to construct and maintain those portions of the proposed transmission line that will cross state lands.

D. In relation to SPS's request for a BLM ROW grant, TRC Environmental Corporation, SPS's consultant, prepared an Environmental Assessment ("EA") under the direction of the BLM, which analyzed the Proposed Project's impact on the environmental, cultural, biological, geological, water, and visual resources on BLM lands that are within the various proposed alternative ROW routes. Based on the EA's evaluation of various alternative routes, the EA concluded that the selected route for the Proposed Project will have minimal environmental impacts and will not unduly impair any important environmental values.

E. Following the BLM's review and evaluation of the route selected in the EA, the BLM published notice of the BLM's EA and a proposed Finding of No Significant Impact ("FONSI"). On June 11, 2014, the 30-day public comment period expired, and no comments or objections to the EA or FONSI were filed. On July 3, 2014, the BLM issued its final FONSI and Decision Record approving the proposed transmission route selected in the EA, and therefore authorized the issuance of a 150-foot ROW grant to SPS for the Proposed Project.

F. On August 8, 2014, OPL formally protested SPS's Application asserting that it needed additional time to analyze the potential impacts of the proposed transmission route on its oil and gas operations.

G. On August 25, 2014, Staff and the NMAG filed direct testimony recommending the Commission: (1) issue a CCN for the construction and operation of the Proposed Project; (2) approve the location for the 345 kV transmission line; (3) determine that a 150-foot ROW is necessary; and (4) authorize SPS to accrue AFUDC. In relation to the initial cost estimate for the Proposed Project, Staff, the NMAG, and LES did not agree with using the SPP's Byway cost

allocation and offered their comments regarding the assignment and allocation of costs associated with the Proposed Project but agreed with SPS that the rate making treatment for the recovery of costs associated with the Proposed Project are not at issue in this case and will be decided in a future SPS general rate case.

H. On August 25, 2014, OPL filed its Motion for Entry of a Protective Order and Supporting Legal Authority ("Motion for Protective Order"), and the Direct Testimony of Joseph De Almeida, which was provisionally accepted for filing subject to the Hearing Examiner's determination regarding claims of confidentiality for portions of the testimony. OPL's direct testimony recommends the Commission's issuance of a CCN, but disputes the location of the proposed transmission route selected in the EA crossing BLM lands based on health and safety concerns. On August 29, 2014, in response to a request by the Hearing Examiner, OPL filed supplemental briefing on its Motion for Protective Order.

I. Since August 2014, SPS, OPL, and the BLM have been engaged in discussions regarding an alternative route for the 345 kV transmission line. OPL proposes certain adjustments to the transmission line route to address health and safety matters in relation to OPL's operations of its oil and gas leases with the BLM. SPS and the BLM have reviewed OPL's proposed alternative transmission route and find it to be acceptable and agree that the alternative transmission route should serve as the basis for the BLM's ROW grant. SPS estimates that the additional cost for the proposed adjustments to the BLM's selected transmission route will be approximately \$730,000, which brings the estimated cost of the Proposed Project to approximately \$54.7 million (total company), including AFUDC. Staff, and the NMAG have reviewed the proposed alternate route and consider it to be an acceptable adjustment to the transmission route proposed in the EA and approved in the BLM's FONSI and Decision Record. On October 16, 2014, the BLM re-issued *Right-of-Way Grant, Serial No. NM-130582* to reflect the selected transmission route, as adjusted.

J. Based on the above described matters, the Signatories desire to enter into this Stipulation to address and resolve all issues among them in this case.

AGREEMENTS

By this Stipulation, the Signatories agree to the following matters:

Section 1. Agreement to Support Commission Issuance of a CCN for the Proposed Project.

1.1 In accordance with Sections 62-9-1 and 62-9-6 of the PUA, SPS's filing demonstrates that the construction and operation of the 345 kV transmission line and associated facilities will satisfy the public convenience and necessity of SPS's New Mexico retail customers by serving the transmission needs of existing and new retail load in southeastern New Mexico, and by enhancing the reliability of SPS's southeastern New Mexico system through reducing potential overload and low voltage conditions on the system.

1.2 SPS's proposal to construct the transmission line at 345 kV specification (with a projected construction completion date in October 2015), and its proposal to operate the system at 230 kV specifications until the Kiowa Substation is constructed and energized (projected to occur approximately May 31, 2018) and to then operate the transmission line at 345 kV specifications beginning on approximately June 1, 2018, is reasonable and cost effective. SPS's filing shows that its existing and projected New Mexico retail loads will require 230 kV transmission service during the period October 2015 through May 2018, and that its projected new and expanded loads will require 345 kV transmission service beginning in June 2018, and thereafter.

1.3 The Signatories support SPS's request for AFUDC, and acknowledge that the reasonableness of the estimated total costs associated with the Proposed Project, including AFUDC, should be addressed in a future SPS general rate case filing.

1.4 Because SPS's filing satisfies the requirements of Sections 62-9-1 and 62-9-6 of the PUA, the Signatories recommend that the Commission grant a CCN to SPS for the Proposed Project.

Section 2. Agreement to Support Commission Location Approval for the Proposed Project

2.1 As stated in Recital J above, the Signatories agree that the minor adjustments to the proposed transmission line route on BLM lands as reflected in the ROW grant issued by the BLM are acceptable.

2.2 The Signatories acknowledge that SPS's filing complies with the application requirements of Rule 592.10 and satisfies the applicable provisions and requirements of Section 62-9-3 of the PUA that concern the Commission's determination of whether the proposed transmission line and associated facilities will unduly impair any important environmental values.

2.3 Based on these matters, the Signatories agree that the Proposed Project will not unduly impair any important environmental values, and therefore the Signatories recommend that the Commission approve and authorize the location of the proposed transmission line and associated facilities.

Section 3. Agreement to have the Commission Determine that 150-foot ROW for the Proposed Project is Necessary

3.1 SPS's filing requests the Commission determine that the proposed 150-foot ROW width for the 345 kV transmission line is necessary to comply with Rule 234 A-2, B-1 and G of the National Electric Safety Code.

3.2 The BLM, the NMSLO, and the only private land owner whose land is crossed by the 345 kV transmission line have granted easements to SPS that allow a 150-foot ROW width for the portions of the transmission line route on their respective lands.

3.3 SPS's Application contains all information required for the Commission to make the ROW determination as specified in Section 62-9-3.2(C) of the PUA. In addition, SPS has provided notice by mail to the BLM, NMSLO, and the private land owner whose property is crossed by the transmission line in accordance with Section 62-9-3.2(D) of the PUA.

3.4 Therefore, the Signatories recommend that the Commission determine that a 150-foot ROW width for the proposed transmission line is necessary in accordance with Section 62-9-3.2 of the PUA.

Section 4. Agreement that the Ratemaking Principles and Treatment of the Estimated Costs for the Proposed Project Shall Be Reserved for Future SPS General Rate Case

4.1 SPS's Application does not request a Commission determination regarding the ratemaking principles and treatment for the Proposed Project as allowed by Section 62-9-1(B) of the PUA.

4.2 Because SPS is not requesting a Commission determination regarding the ratemaking principles and treatment for the Proposed Project, the Signatories support the Commission issuing a final order that reserves, for a future SPS general rate case, the Commission making its determination(s) regarding the ratemaking principles and treatment that will apply to the recovery of the New Mexico retail portion of the costs associated with the Proposed Project.

4.3 As stated in the Recitals and Section 1.2 of this Stipulation, SPS plans to build the transmission line at 345 kV specification and operate the Proposed Project at 230 kV from the time of commercial operation through May 2018 and then at 345 kV starting June 2018 going forward. The Southwest Power Pool allocates, among its members, the cost responsibility for 230 kV transmission facilities differently from how it allocates the cost responsibility for 345 kV transmission facilities. However, the Commission is not bound to automatically pass any specific share of the total costs of the Proposed Project that SPP allocates to the SPS zone through to New Mexico customers. All Signatories reserve their rights in a future Commission rate case regarding the proposed cost allocation and New Mexico retail ratemaking treatment of the Proposed Project.

Section 5. Staff's Recommendations for Compliance Filings

5.1 In relation to Staff's compliance filing recommendations, SPS agrees to file the following items in accordance with Staff's recommendations: (1) copies of all final required construction permits associated with the Proposed Project within two weeks of receipt of those permits; (2) the actual costs associated with the Proposed Project in this case, as soon as the information becomes available; and (3) notice of the date(s) that the Proposed Project is placed in service.

Section 6. General Agreements

6.1 The Signatories will support and use their best efforts to obtain Commission approval of the Stipulation.

6.2 The Stipulation is the result of negotiation, compromise, and settlement, among the Signatories with respect to the issues addressed in this Stipulation. Further, the Stipulation resolves all issues concerning the relief requested in SPS's Application in this case.

6.3 The Stipulation represents a fair, just, and reasonable resolution of all issues in this case and, with the adjustments to the proposed transmission ROW on BLM lands discussed earlier, the Stipulation is consistent with the provisions and requirements of the PUA and Rule 592. Therefore, the Stipulation satisfies all applicable requirements of the PUA and Commission rules, and should be approved by the Commission.

6.4 The Signatories support the admission into the case record of SPS's pre-filed direct and supplemental direct testimony, Staff's and the NMAG's direct testimony, and SPS's, Staff's, and the other parties' testimony filed in support of the Stipulation. However, the Signatories agree that the initial testimony offered by OPL shall be withdrawn from the case record, and further agree that the Motion for Protective Order and supporting brief, shall be withdrawn.

6.5 The terms and conditions in this Stipulation are interdependent, and the various provisions of this Stipulation are not severable. None of the provisions of this Stipulation shall

become fully operative unless the Commission shall have entered a final order approving this Stipulation. If the Commission issues a final order inconsistent with the terms of this Stipulation, each Signatory has the right to withdraw from the Stipulation, and to thereafter submit testimony and obtain a hearing and advocate any position it deems appropriate with respect to any issue in the Stipulation. The Stipulation does not resolve any claims, issues, or proceedings pending in or pertaining to other jurisdictions.

6.6 There are no third party beneficiaries of this Stipulation. Although the Stipulation represents a settlement among the Signatories with respect to the issues presented in this case, the Stipulation is merely a settlement proposal submitted to the Commission, which has the authority to enter an order resolving this case. By approving the Stipulation, the Commission is not establishing any precedent except for the matters specifically provided for in the Stipulation. The Signatories agree that this Stipulation resolves issues only with respect to SPS's New Mexico retail jurisdiction and shall not be binding on or have an effect on proceedings in SPS's other jurisdictions.

6.7 This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Signatories.

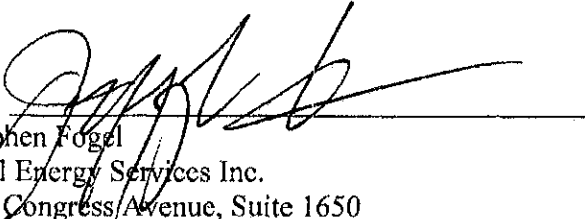
6.8 This Stipulation is binding on each of the Signatories only for the purpose of settling the issues as set forth in this Stipulation and for no other purposes, and the Stipulation shall not be binding or precedential on a Signatory outside of this proceeding. It is acknowledged that a Signatory's support of the matters contained in this Stipulation may differ from the position taken or testimony presented by it in other cases, dockets, and jurisdictions. To the extent that there is a difference, a Signatory does not waive its position in any of those other cases. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Stipulation in other cases, whether those cases present the same or a different set of circumstances, except as otherwise may be explicitly provided by this Stipulation. The provisions of this Stipulation are intended to relate to only the specific matters referred to in this Stipulation.

6.9 To the extent additional waivers, variances, or approvals are required to effectuate the Stipulation as approved by the Commission, the Signatories support the Commission granting the waivers, variances, and approvals that are determined to be necessary for SPS to implement and comply with the approved Stipulation and the modifications to its Application.

6.10 This Stipulation may be executed in any number of counterparts, including by telefax or PDF signature, each of which shall be deemed to be an original and all of which will constitute one and the same agreement.

The following fully and duly authorized representatives of the Signatories have signed this Stipulation as of October 22, 2014.

SOUTHWESTERN PUBLIC SERVICE COMPANY

By: 
Stephen Fogel
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816 Congress Avenue, Suite 1650
Austin, Texas 78701-2471

Jeffrey L. Fornaciari
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STAFF OF THE NEW MEXICO PUBLIC REGULATION
COMMISSION

By: /s/ Julie Park (electronically approved 10/22/14)

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NEW MEXICO ATTORNEY GENERAL

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)
PUBLIC SERVICE COMPANY'S)
APPLICATION FOR EXPEDITED: (1))
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)
AUTHORIZING CONSTRUCTION AND)
OPERATION OF A 345 KV TRANSMISSION)
LINE AND ASSOCIATED FACILITIES IN)
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DURING CONSTRUCTION FOR THE)
TRANSMISSION LINE AND ASSOCIATED)
FACILITIES,)
SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
APPLICANT.)

CASE NO. 14-00114-UT

2014 OCT 22 PM 4 30

NEW MEXICO
PUBLIC REGULATION
COMMISSION
FILED

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the *Uncontested Stipulation* was electronically communicated and either hand-delivered or sent via Federal Express, to each of the following on this 22nd day of October, 2014:

VIA E-MAIL AND FEDERAL EXPRESS:

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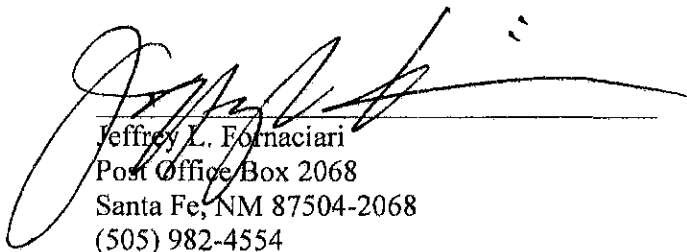
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Respectfully submitted,

HINKLE SHANOR LLP



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