

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF SOUTHWESTERN )  
PUBLIC SERVICE COMPANY'S )  
APPLICATION FOR REVISION OF ITS )  
RETAIL ELECTRIC RATES PURSUANT )  
TO ADVICE NOTICE NO. 256 )  
 )  
SOUTHWESTERN PUBLIC SERVICE )  
COMPANY, )  
 )  
Applicant. )  
\_\_\_\_\_ )

Case No. 15-00296-UT

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**STAFF'S RESPONSE TO VOTE SOLAR'S AND COALITION FOR CLEAN  
AFFORDABLE ENERGY'S JOINT MOTION TO DISMISS SPS'S PROPOSED  
INCREASES TO RATE 59**

The Utility Division Staff ("Staff") of the New Mexico Public Regulation Commission ("Commission") hereby responds to Vote Solar's and Coalition for Clean Affordable Energy's ("CCAЕ") Joint Motion to Dismiss Southwestern Public Service Company's ("SPS") Proposed Increases to Rate No. 59, and Supporting Brief with the following:

1. On October 16, 2015, Southwestern Public Service Company ("SPS") filed its Application for Revision of its Retail Electric Rates pursuant to Advice Notice No. 256.<sup>1</sup>
2. On March 8, 2016, Joint Motion to Dismiss SPS's Proposed Increases to Rate No. 59 and Supporting Brief ("Joint Motion") was filed by Vote Solar and CCAЕ.

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<sup>1</sup> See SPS Application Attachment No. 1 filed on October 16, 2015. Proposed Notice to Customers refers to Advice Notice No. 258 and not 256. SPS then submitted Advice Notice 256 on October 19, 2015 to reflect the correct number but did not make the corrections to the rate revision numbers or tariff numbers. It appears that Advice Notice 256 was submitted once again on January 19, 2016 to reflect the correct rate revision numbers and tariff numbers.

3. In the Joint Motion,<sup>2</sup> Vote Solar and CCAE request that the Commission dismiss SPS's request to increase energy charges under Rate 59 for failing to meet its burden of proof, among other reasons. However, Vote Solar and CCAE do not ask for dismissal of SPS's request to change its method of calculating Rate 59 charges on customer bills using the newly defined quantity "customer usage."<sup>3</sup> Both the requested increase in energy charges and the requested change in methodology are being proposed under Third Revised Rate 59.
4. As the Joint Motion states, under Commission Rule 1.2.2.12(B) NMAC, a party to a proceeding may at any time move to dismiss a portion or all of a proceeding for lack of jurisdiction, failure to meet the burden of proof, failure to comply with the rules of the Commission, or for other good cause shown.
5. Staff agrees that SPS has failed to meet its burden of proof to increase its energy charges under Rate 59 and therefore SPS's request should be denied. There is no testimony in SPS's Application to support this request.
6. SPS also seeks to change the methodology for calculating charges under Rate No. 59. Vote Solar and CCAE however, do not seek to dismiss the request to change the methodology but do not provide an explanation. The Joint Motion, in citing to the Direct Testimony of Richard M. Luth, p. 46, Table RML-2, accurately states that SPS proposes to revise the charges to apply "to customer usage provided by customer generation, whether directly from customer generation or as an offset to kWh

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<sup>2</sup> The Joint Motion refers to SPS Tariff No. 5011.4 due to the error in SPS's Application, however, the corrections, as filed on January 19, 2016, show that it should be Tariff No. 5011.3.

<sup>3</sup> Joint Motion, p. 6.

delivered from the SPS system.”<sup>4</sup> This is essentially the same language in the proposed Tariff No. 5011.3 under the new definition of customer usage. Other than what is shown in Table RML-2, there is nothing in Luth’s testimony supporting the requested change.

7. Although the Joint Motion seeks to dismiss only the rate increase and not the methodology, Staff believes it is in the public interest to dismiss the entire Third Revised Rate 59. SPS has failed to meet its burden of proof to support its proposed revisions to Rate 59.<sup>5</sup> SPS does not provide an explanation or justification for the change in methodology or the increase in the energy charges. The Commission therefore has no basis to determine if the new charges under Rate 59 are just and reasonable.<sup>6</sup>

WHEREFORE, Staff respectfully requests that the Commission dismiss the entire proposed Third Revised Rate 59.

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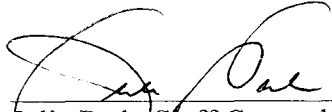
<sup>4</sup> Joint Motion, p. 6.

<sup>5</sup> *See* NMSA 1978, 62-8-7(A).

<sup>6</sup> *See* NMSA 1978, 62-8-1.

Respectfully Submitted,

**NM Public Regulation Commission  
Utility Division Staff**

A handwritten signature in black ink, appearing to read "Julie Park", is written over a horizontal line.

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN  
PUBLIC SERVICE COMPANY'S  
APPLICATION FOR REVISION OF ITS  
RETAIL RATES UNDER ADVICE NOTICE  
NO. 256,

SOUTHWESTERN PUBLIC SERVICE  
COMPANY,

APPLICANT.

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) Case No. 15-00296-UT

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OFFICIAL CERTIFICATE OF SERVICE

I CERTIFY that true and correct copies of the *Staff's Response to Vote Solar's and Coalition for Clean Affordable Energy's Joint Motion to Dismiss SPS's Proposed Increases to Rate 59* were sent by me to the parties listed below via email on March 21, 2016 and by first class mail on March 22, 2016.

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**DATED** this 21<sup>st</sup> day of March, 2016

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
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