

April 1, 2021

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**RE: Southwestern Public Service Company
Pro Forma Engineering, Design, Permitting and Procurement Service
Agreement
Docket No. ER21-__-000**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2018), and Section 35.13(b) of the regulations of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 35.13(b)(2020), Xcel Energy Services Inc. (“XES”), on behalf of its operating company affiliate – Southwestern Public Service Company (“SPS”) – hereby submits for filing this electronic filing of revised tariff sheets to the Xcel Energy Operating Companies Joint Open Access Transmission Tariff (“Joint OATT”),¹ compliant with the Commission’s Order No. 714.²

By this filing, XES proposes to establish a new Attachment W to the Joint OATT to provide for standardized terms and conditions for engineering and procurement agreements between SPS and its Interconnection Customers (“Parties”). As described further below, a *pro forma* Engineering, Design, Permitting and Procurement Service Agreement (“E&P Agreement”) will assist in administrative efficiency.

XES, on behalf of the SPS, respectfully requests the Commission to accept the Attachment W addition to the Joint OATT for filing, effective June 1, 2021, sixty (60) days after filing, for good cause shown.

I. Background

XES is the service company subsidiary of Xcel Energy Inc., the holding company parent of the Xcel Energy Operating Companies. As such, XES makes filings with, and appears in proceedings before, the Commission on behalf of the Xcel Energy Operating Companies.

¹ Xcel Energy Operating Companies, FERC Electric Tariff, Third Revised Volume No. 1. Public Service Company of Colorado (“PSCo”), an affiliate of XES and SPS, has been designated as the Xcel Energy operating company responsible for submitting Joint OATT changes pursuant to the Commission’s eTariff rules.

² *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008); *order on clarification*, Order No. 714-A, 147 FERC . ¶ 61,115 (2014).

SPS is a wholly-owned utility operating company subsidiary of Xcel Energy Inc., and is, *inter alia*, engaged in the business of generating, transmitting, distributing, and/or selling electric power and energy and related services in the States of New Mexico, Texas, Kansas and Oklahoma. SPS is a transmission-owning member of Southwestern Power Pool (“SPP”) and provides most services pursuant to the Southwest Power Pool Open Access Transmission Tariff (“SPP Tariff”) on file with and accepted by the Commission. SPS provides certain wholesale transmission services, *inter alia*, pursuant to the Xcel Energy Operating Company Joint Open Access Transmission Tariff (“Xcel Energy OATT”) on file with and accepted by the Commission.³ Individual SPS service agreements are on file with the Commission in SPS’ FERC Electric Tariff Second Revised Volume No. 6.

Generation Interconnection Customers (“Customer”) desiring to interconnect New Generation (“Project”) to SPS must follow the SPP’s Tariff, Attachment V – Generator Interconnection Procedures (“GIP”).⁴ SPS (“Transmission Owner”) abides by the SPP Tariff for all new generation interconnections. The GIP identifies to Customers the generation interconnection steps and sequence. Customers desiring to pursue a generation interconnection to the Transmission Owner must first submit their generation interconnection request to SPP for the GIP process to begin. Once the interconnection request is submitted to SPP, the Parties are subject to the GIP process and timeline. Facility Studies (“Study”) are part of the GIP process and when complete, the Parties commence to develop the Generation Interconnection Agreement (“GIA”). As this point it may be beneficial to the Parties to execute an E&P Agreement.

There are cases where the Study has not been completed by SPS and it is reasonably estimated that the GIA will not be negotiated and accepted by the Commission within a timeframe necessary to maintain the Project schedule. Given a Customer’s Project Commercial Operation Date (“COD”), a *pro-forma* E&P Agreement is necessary to begin and expedite the design, engineering, and procurement for the interconnection facilities and network upgrades necessary before the Study and GIA negotiations are completed. An E&P Agreement does not provide any guarantee the Customers’ desired COD can be met.

SPP does not offer a *pro-forma* E&P Agreement. SPP does not require that it is a signatory on non-conforming or conforming E&P Agreements between a Transmission Owner and an Interconnection Customer. The proposed Attachment W in the instant filing would establish a *pro forma* E&P Agreement and thereby aid SPS and the Customer in meeting their COD.

II. Description of pro forma E&P Agreement

Acceptance of proposed Attachment W provides for standardized terms and conditions for the Parties to commence activities associated with performance of engineering, design, and procurement of materials by SPS prior to the execution of the GIA. The intent of the E&P Agreement is to avoid delays in establishing an E&P Agreement in the event that the Interconnection Customer requires one.

³ The Xcel Energy OATT was restated in eTariff and accepted for filing in *Public Service Company of Colorado*, Docket No. ER16-1422-000, unpublished letter order (August 16, 2016).

⁴ SPP FERC Electric Tariff, Sixth Revised Vol. No. 1, Generator Interconnection Procedures (GIP), Att. V.

The E&P Agreement terms define the pre-payment amount requested from the Customer for the early design and procurement of long-lead time equipment to meet the GIA COD. This pre-payment, and any others requested under the E&P Agreement, will be included as a partial payment of the total GIA costs once it is executed. Under the terms of the E&P Agreement, the Customer will make any payment of funds to SPS prior to the execution of the GIA.

Following the execution of the E&P Agreement, the Parties will continue their negotiations of the GIA in accordance with the GIP. By implementing Attachment W, SPS will be able to streamline and efficiently execute the E&P Agreement with SPP and the Customer. This step will significantly expedite SPS engineering activities benefiting the Customer far sooner than if the Parties had to negotiate a non-conforming E&P Agreement.

III. Effective Date

XES respectfully requests that the proposed Attachment W become effective as of June 1, 2021, sixty (60) days after the date of filing.

V. Description of Documents Being Submitted with Filing

This filing contains:

- (a) This transmittal letter;
- (b) A clean version of the proposed Attachment W in eTariff format;
- (c) A list of state commissions served; and
- (d) Certificate of Service.

VI. Communication and Correspondence

Correspondence and communications with respect to this filing should be addressed to the following⁵:

Timothy T. Mastrogiacomo
Lead Assistant General Counsel
Xcel Energy Services Inc.
701 Pennsylvania Ave. NW Suite 250
Washington, DC 20004
Phone: (202) 661-4481
Email: timothy.t.mastrogiacomo@xcelenergy.com

Liam D. Noailles
Manager Regulatory Administration
(Transmission)
Xcel Energy Services Inc.
414 Nicollet Mall - 7th Floor
Denver, CO 55401
Phone: (612) 330-7547
Email: liam.d.noailles@xcelenergy.com

⁵ XES requests waiver of Section 385.203(b)(3) of the Commission's regulations to permit the designation of more than two persons upon whom service is to be made in this proceeding. 18 C.F.R. § 385.203(b)(3) (2018).

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Mark C. Moeller
Manager, Transmission Business Relations
Xcel Energy Services Inc.
414 Nicollet Mall
Minneapolis, MN 55401
Phone: (612) 330-7663
Email: mark.c.moeller@xcelenergy.com

Skip L. Black
Transmission Account Representative
Xcel Energy Services Inc.
790 South Buchanan Street, 06
Amarillo, TX 79101
Phone: (806) 378-2238
Email: skip.larry.black@xcelenergy.com

Annette L. Gallegos
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Amarillo, TX 79101
Phone: (806) 378-2218
Email: annette.gallegos@xcelenergy.com

William A. Grant
RVP, Regulatory and Strategic Planning
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790 Buchanan Street, 07
Amarillo, TX 79101
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Email: william.a.grant@xcelenergy.com

VII. Service and Posting

XES will electronically serve a notice of the filing on the state commissions listed on the attached State Commissions Service List. A courtesy copy will be provided to the Director of the Division of Electric Power Regulation (Central). In addition, a copy of the filing will be posted at the offices of XES at SPS at 790 South Buchanan Street in Amarillo, Texas, and on the Transmission OATT page of the Xcel Energy website (www.xcelenergy.com).

Please direct any questions regarding this filing to Elizabeth Walkup at (612) 330-6780.

Respectfully submitted,

/s/ Mark C. Moeller

Mark C. Moeller
Manager, Transmission Business Relations
Xcel Energy Services Inc.
On behalf of
Southwestern Public Service Company

SERVICE LIST

Ms. Penny Murrell, Director
Division of Electric Power Regulation
(Central)
Federal Energy Regulatory
Commission
888 First Street N.E.
Washington, DC 20426
Email: penny.murrell@ferc.gov

Ms. Melanie Sandoval
Records Management
New Mexico Public Regulation
Commission
P.E.R.A. Building
P.O. Box 1269
Santa Fe, NM 87504-1269
Email: melanie.sandoval@state.nm.us

Mr. Stephen Mendoza
Filing Clerk
Public Utility Commission of the State of
Texas
1701 North Congress Avenue
Austin, TX 7871
Email: stephen.mendoza@puc.state.tx.us

CERTIFICATE OF SERVICE

I, Elizabeth Walkup, hereby certify that I have this day served a notice of the enclosed filing via electronic mail on each party designated on the attached Service List.

Dated at Minneapolis, Minnesota this 1st day of April, 2021.

ES Elizabeth Walkup

Elizabeth Walkup,
Xcel Energy Services Inc.
414 Nicollet Mall
Minneapolis, MN 55401
Phone: 612-330-6780
Email: elizabeth.a.walkup@xcelenergy.com

Proposed Effective Date: 6-1-2021

**Attachment W-3
Form of Service Agreement for Engineering, Design, Permitting and
Procurement Service**

Engineering and Procurement Agreement

for

Transmission Owner Interconnection Facilities and Required Network Upgrades

for

Southwest Power Pool Project [INSERT QUEUE NUMBER]

This Engineering and Procurement Agreement (“E&P Agreement”) is entered into this _____ day of _____, 20__, by and between [INSERT COUNTERPARTY NAME], a [INSERT TYPE OF ORGANIZATION AND STATE OF ORGANIZATION] (“Interconnection Customer”) and Xcel Energy Services Inc. (“XES”), a Delaware corporation, on behalf of Southwestern Public Service Company, a New Mexico corporation, (“Transmission Owner” or “SPS”).

In this E&P Agreement, Interconnection Customer and Transmission Owner may each be referred to individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, Interconnection Customer intends to construct, own, and operate a [INSERT SIZE] MW [INSERT TYPE] generation project, also referred to by the Interconnection Customer as [INSERT PROJECT NAME] located in [INSERT NAME], [INSERT STATE] as identified in SPS [INSERT QUEUE NUMBER] (hereinafter the “Project”); and

WHEREAS, The Interconnection Customer has requested an in-service date of {INSERT DATE}, and in an attempt to meet Interconnection Customer’s schedule the Parties agree to enter into this E&P Agreement; and

WHEREAS, Interconnection Customer and Transmission Owner intend to enter into a Generator Interconnection Agreement (“GIA”) that will provide for, among other things, the interconnection of the Project to the Transmission Owner’s [INSERT LINE OR SUBSTATION NAME] (“Transmission Owner’s Facility”). Such interconnection is referred to herein as (the “Interconnection”); and

WHEREAS, Appendixes A and B attached to this E&P Agreement are hereby incorporated into this E&P Agreement and shall be considered a part of this E&P Agreement.

NOW THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed

AGREEMENT

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1. Services. All work and services to be performed for the Interconnection, including but not limited to the system upgrades described below for the Interconnection, are referred to herein as the “Work.”

2. Definitions. Unless specifically defined herein, capitalized terms used herein shall have the meaning as defined in the Xcel Energy Operating Companies Open Access Transmission Tariff on file with the Federal Energy Regulatory Commission (the “Xcel Energy OATT”).

3. Work. The Parties agree to enter into this E&P Agreement with the purpose of authorizing and directing the Transmission Owner to begin the Work by commencing activities associated with land procurement, permitting, engineering and design, and long lead time material procurement associated with the Interconnection as specifically set forth in Appendix A (collectively, the “Preliminary Work”), and for Interconnection Customer to provide financial security for such Preliminary Work.

3.1 Upon completion of the Interconnection Facilities Study, Transmission Owner, Interconnection Customer and if applicable the Regional Transmission Organization will negotiate and execute a GIA to define the rights and responsibilities of each Party regarding the Interconnection and required system upgrades. The GIA is anticipated to provide, among other things, for the construction and financial responsibilities of Transmission Owner and Interconnection Customer to engineer, design, procure, and/or construct all areas, equipment, facilities, and/or upgrades which are necessary for:

- a) the interconnection of the Project to the Transmission Owner’s Facility, including the tie-in from the Transmission Owner’s Facility to the interconnection facilities to be owned and operated by Interconnection Customer (“Interconnection Customer Interconnection Facilities”), and
 - b) the upgrades to the Transmission Owner’s Transmission System which are required to achieve adequate stability of the system with the Project on-line (“Network Upgrades”).
- 3.2 Should the Network Upgrades in the Facilities Study change, any additional costs from the change would be borne by the Interconnection Customer under the GIA.
- 3.3 The Preliminary Work completed by Transmission Owner under this E&P Agreement shall be considered Work completed in performance of Transmission Owner’s obligations under the GIA.
- 3.4 Notwithstanding that the GIA has not been entered into by the Parties at the time this E&P Agreement is executed, Interconnection Customer agrees to have Transmission Owner begin the Preliminary Work in order to meet Interconnection Customer’s schedule for the generation Project’s Commercial Operation Date. Transmission Owner will begin such Preliminary Work in the same way that Transmission Owner would be required to do so if the GIA were in effect. Preliminary Work under these conditions will be performed subject to (i) the terms set forth herein and (ii) the Interconnection Customer’s agreement to provide financial security to Transmission Owner for all reasonable and necessary costs and expenses incurred by Transmission Owner in performing the Preliminary Work.

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4. Billing and Payment. The Interconnection Customer shall remit to Transmission Owner security in the amount of [INSERT DOLLAR AMOUNT] (“E&P Security”) in the manner set forth in Section 4.2 of this E&P Agreement in order to provide financial security to Transmission Owner for its portion of the Preliminary Work to be completed in advance of an executed GIA. Transmission Owner is willing to proceed with the Preliminary Work expressly contingent upon the following terms and conditions:

- 4.1. Upon execution of this E&P Agreement and receipt of the E&P Security, Transmission Owner will proceed with the Preliminary Work to facilitate the Interconnection. Transmission Owner shall perform the Preliminary Work in accordance with the standards set forth in the Xcel Energy OATT.
- 4.2. The Parties acknowledge that the GIA for the Project has not yet been executed and as such there is no security in place for any of Transmission Owner’s portion of the Preliminary Work completed prior to execution of the GIA. To provide financial security to Transmission Owner under this E&P Agreement, Interconnection Customer will remit the E&P Security to Transmission Owner in the form of cash, a parental guarantee, or letter of credit in the amount of [INSERT DOLLAR AMOUNT] ([INSERT WRITTEN DOLLAR VALUE]) payable to “Southwestern Public Service Company”. Upon receipt of the E&P Security and an executed copy of the E&P Agreement, Transmission Owner will assign the E&P Security to a project account maintained by the Transmission Owner (the “E&P Project Account”).
- 4.3. At any time that Transmission Owner estimates that additional security is required before a definitive GIA for the Project has been executed to continue Transmission Owner’s portion of the Preliminary Work, Transmission Owner shall request in writing from Interconnection Customer additional security, which when totaled with the E&P Security in the E&P Project Account, will allow Transmission Owner to continue its portion of the Preliminary Work (“Additional Security”). Such request shall specifically describe the remaining scope of Preliminary Work to be completed by Transmission Owner and the additional security required by Transmission Owner to complete such work. Interconnection Customer will remit the amount of Additional Security requested to Transmission Owner within ten (10) business days in the same manner prescribed in Section 4.2 above. Failure of Interconnection Customer to remit Additional Security within ten (10) business days will result in the termination of this E&P Agreement. Any such termination shall not affect the Interconnection Customer’s Interconnection queue position.
- 4.4. Subject to Section 4.5 of this E&P Agreement, the Transmission Owner will release the E&P Security after Transmission Owner and Interconnection Customer have executed a GIA for the Project if the E&P Security was provided in the form of a parental guarantee or letter of credit (including any Additional Security) to Interconnection Customer.
- 4.5. Interconnection Customer may direct Transmission Owner at any time, through written correspondence, to cease the Preliminary Work under this E&P Agreement. In such event, the E&P Security will be released or refunded to Interconnection Customer only after all

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documented fees, charges and penalties associated with Transmission Owner's Preliminary Work, including any associated cancellation costs of orders for equipment have been deducted. Transmission Owner shall provide documentation substantiating any fees, charges, and penalties incurred in connection with the cancellation of orders for equipment within the scope of this section. In the event that Interconnection Customer directs Transmission Owner to cease Preliminary Work or otherwise terminates this agreement, Transmission Owner shall mitigate any costs associated with Preliminary Work under this E&P Agreement in accordance with Section 9 of the SPP Generator Interconnection Procedures.

- 4.6 In the event that either, (i) this E&P Agreement is terminated or (ii) Interconnection Customer elects to cancel this E&P Agreement after Transmission Owner takes possession of any equipment ordered under this E&P Agreement, Transmission Owner may elect: (a) to take title to the equipment ordered on behalf of Interconnection Customer, in which event Transmission Owner shall refund Interconnection Customer any amounts paid by Interconnection Customer for such equipment and shall pay the cost of delivery of such equipment, or (b) to transfer title to and deliver the equipment ordered by Transmission Owner to Interconnection Customer, in which event Interconnection Customer shall pay any unpaid balance and cost of delivery of such equipment. Delivery instructions shall be provided to Transmission Owner by Interconnection Customer within thirty (30) days in either event. Both Transmission Owner and Interconnection Customer agree that if the Transmission Owner Interconnection Facilities and Network Upgrades are constructed as anticipated, then all costs, expenses, ownership rights etc. will be managed as described in the GIA.

5. Obligations. This E&P Agreement does not obligate Transmission Owner to construct any Transmission Owner Interconnection Facilities or Network Upgrades. Interconnection Customer understands that Transmission Owner is under no obligation to construct any facilities for the Interconnection until after the GIA is executed by Transmission Owner and Interconnection Customer. The GIA will establish the final milestone schedule and cost responsibility for costs and construction associated with interconnection of the Project.

6. Notices. All communications hereunder will be given in writing and: (i) personally delivered or (ii) sent to the addressee by overnight courier service. The addresses to be used for all such communications are listed in Appendix B. Either Party may change its address for the purposes of this E&P Agreement by giving not less than five (5) business days prior written notice to the other in accordance with this Section 5.

6. Modifications. The Parties hereto agree that this E&P Agreement shall constitute the entire agreement and understanding between the Parties hereto with regard to the subject matter expressly provided for herein. The Parties hereto are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. No amendment of any provision of this E&P Agreement shall be effective unless set forth in a written document signed by authorized representatives of both Parties.

8. Limitation of Liability. In no event shall either Party be liable in connection with this E&P Agreement for any special, indirect, incidental, consequential or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary

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equipment or services, whether based in whole or in part in contract, in tort, or any other theory of liability.

9. Authority. Each Party represents and warrants that it has full power and authority to enter into and to perform all obligations imposed upon it by this E&P Agreement. The person signing this E&P Agreement on behalf of each Party has been properly authorized and empowered to execute this E&P Agreement.

10. Disputes. The Parties shall exercise commercially reasonable good faith efforts to resolve any dispute that may arise between them in relation to this E&P Agreement through amicable discussions between their respective representatives. In the event the dispute cannot be resolved through such good faith efforts, the dispute resolution procedures set forth in Article 12 of the Xcel Energy OATT shall be used to resolve the dispute.

11. Governing Law. The validity, interpretation and performance of this E&P Agreement and each of its provisions shall be governed by the laws of the State of [INSERT STATE] without regard to its conflicts of law.

12. Generator Interconnection Agreement. With the exception of termination pursuant to Article 14 herein, nothing in this E&P Agreement will relieve either Party hereto of its obligation to negotiate a GIA to govern the interconnection of the facilities of the Parties hereto at the point of Interconnection.

13. Assignment. Upon written notice to the other Party, either Party hereto may assign this E&P Agreement to an affiliate of the assigning Party without the other Party's consent. In all other circumstances, neither Party hereto may assign this E&P Agreement without the other Party's prior written consent.

14. Termination. Unless earlier terminated as provided herein, this E&P Agreement will terminate (i) when the Parties hereto execute the GIA or (ii) if the Interconnection Customer elects to cease the Preliminary Work pursuant to Section 4.5 of this E&P Agreement, and all financial settlements under this E&P Agreement have been completed. If a GIA is not signed by [INSERT DATE], the Interconnection Customer will be deemed to have to ceased the Preliminary Work under this E&P Agreement, unless the Parties otherwise mutually agreed.

15. Survival. The provisions of this E&P Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including those provisions relating to Section 4.5 (Early Termination), Section 8 (Limitation of Liability), Section 10 (Disputes), and Section 14 (Termination). In addition, the obligation to pay any money due and owing to either Party pursuant to this E&P Agreement will survive termination of this E&P Agreement.

16. Execution. If the foregoing correctly sets forth the agreement of the Parties, the Interconnection Customer shall indicate by signing one original counterpart of this E&P Agreement in the space provided and forward a PDF copy of the signature page to:

Transmission Owner:

Southwestern Public Service Company
Attn: {INSERT NAME}

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Xcel Energy Services Inc.
[ADDRESS]
[CITY AND STATE]
Email: [INSERT EMAIL]

Transmission Owner will sign original and provide a PDF copy of the fully executed E&P Agreement to Interconnection Customer for Interconnection Customer's files.

[Signatures on Following Page]

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SIGNATURES

[INSERT QUEUE NUMBER] E&P AGREEMENT

Transmission Owner

**Xcel Energy Services Inc. as authorized agent for
Southwestern Public Service Company, a New Mexico corporation**

By: _____

Printed Name: _____

Title: _____

Date: _____

Interconnection Customer

By: _____

Printed Name: _____

Title: _____

Date: _____

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Appendix A to E&P Agreement

Preliminary Work

The Transmission Owner agrees to begin the Preliminary Work by commencing activities associated with land procurement, permitting, engineering and design, and procurement of long lead material associated with the Interconnection as set forth below.

Engineering Estimates (+/- 30%) for the [INSERT PROJECT NAME] Project as defined in SPP [INSERT QUEUE NUMBER] Facilities Study:

Substations	\$ _____
Transmission	\$ _____
Siting and Land Rights	\$ _____
Long Lead Material Ordering	\$ _____
Total	\$ _____

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Appendix B to E&P Agreement
Addresses for Delivery of Notices

Notices:

Transmission Owner:

Southwestern Public Service Company
Attn: [INSERT NAME]
Xcel Energy Services Inc.
[ADDRESS]
[CITY AND STATE]

Interconnection Customer:

[TO BE SUPPLIED]
ATTN: [TO BE SUPPLIED]
[ADDRESS]
[CITY AND STATE]

Billings and Payments:

Transmission Owner:

Southwestern Public Service Company
Attn: [INSERT NAME]
Xcel Energy Services Inc.
[ADDRESS]
[CITY AND STATE]

Interconnection Customer:

[TO BE SUPPLIED]
ATTN: [TO BE SUPPLIED]
[ADDRESS]
[CITY AND STATE]