

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF SOUTHWESTERN)
PUBLIC SERVICE COMPANY'S)
APPLICATION FOR APPROVAL OF ITS:)
(A) 2014 ENERGY EFFICIENCY AND LOAD)
MANAGEMENT PLAN AND ASSOCIATED)
PROGRAMS; (B) REQUEST FOR)
FINANCIAL INCENTIVES FOR 2013-2015;) CASE NO. 13-00286-UT
(C) COST RECOVERY TARIFF RIDER;)
AND (D) REQUEST TO ESTABLISH)
LOWER MINIMUM SAVINGS)
REQUIREMENTS FOR 2014 UNDER THE)
EFFICIENT USE OF ENERGY ACT,)
)
SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
)
)
APPLICANT)
_____)**

UNCONTESTED STIPULATION

In accordance with 1.2.2.20(A) NMAC, Applicant, Southwestern Public Service Company (“SPS”), the Utility Division Staff (“Staff”) of the New Mexico Public Regulation Commission (“Commission”), and the Coalition for Clean Affordable Energy (“CCAЕ”), (collectively, “the Signatories”) have entered into this Uncontested Stipulation (“Stipulation”) as the basis for recommending that the Commission approve SPS’s 2014 Energy Efficiency and Load Management Plan and the associated programs and budgets, as modified by this Stipulation, that will be implemented in 2014 and 2015 (“2014 Plan”). The only other party to this case, Occidental Permian Ltd. (“Occidental”), does not oppose the Stipulation.

Recitals

The Signatories acknowledge and affirm the following matters:

A. SPS's Application, dated August 29, 2013, requests: (1) approval of SPS's 2014 Plan, for calendar years 2014 and 2015, which includes seven Residential Segment Programs (including low-income programs) and three Business Segment Programs, all of which are a continuation of programs that the Commission approved in Case No. 11-00400-UT (*i.e.*, SPS's "2012 Plan" filing); (2) approval to establish a lower minimum energy savings requirement for 2014 in accordance with Section 62-17-5(H) of the Efficient Use of Energy Act¹ (NMSA 1978, §§ 62-17-1 through 62-17-11 – "EUEA"); (3) approval of and authorization for SPS to recover its 2014 Plan costs through its Energy Efficiency Tariff Rider ("EE Rider"); (4) approval of and authorization for SPS to earn an annual incentive for its energy efficiency and load management plans, as authorized under Section 62-17-5(F), for the period 2013 through 2015, and have the incentives recovered through the EE Rider; and (5) approval to continue operating the 2013 portfolio of programs filed under the 2012 Plan until the Commission acts on the 2014 Plan.

B. In the 2014 Plan, SPS proposes to: (1) annually recover approximately \$7.9 million of program and administrative costs, plus annual incentive costs each year for 2014 and 2015, which will be annually adjusted for any over or under-recovery balances during the prior year; and (2) pursuant to Section 62-17-6(A): (a) calculate the monthly EE Rider rates for 2014 and thereafter, based on three percent of its total customer bills (excluding gross receipts taxes and franchise and right-of-way access fees) or \$75,000 per customer per calendar year, whichever is less, for customer classes with the opportunity to participate; (b) recover all Commission-approved program costs, and incentives through the EE Rider; and (c) prospectively change the basis for its assessment of EE Rider rates from a kilowatt-hour basis to a percent of bill basis.

C. The Stipulation incorporates and implements: (1) the essential elements of the Legislature's 2013 amendments to the EUEA; and (2) the agreed to modifications to SPS's Application, the 2014 Plan, and other related matters.

¹ The EUEA was amended in 2013 and all statutory references are to the amended EUEA.

D. The Stipulation represents a fair, just, and reasonable resolution of all issues related to SPS's 2014 Plan, and with the modifications discussed herein, the Stipulation is consistent with the provisions and requirements of the EUEA, as amended, and the New Mexico Public Utility Act (NMSA 1978, §§ 62-3-1 *et seq.* – "PUA"). Therefore, the Stipulation satisfies the public interest requirements of the EUEA and PUA and should be approved by the Commission.

Agreements

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

Section 1. Stipulated Approval of SPS's 2014 Plan and Associated Programs, as modified by the Stipulation.

1.1 SPS's 2014 Plan and Associated Programs

(a) SPS's Application and supporting testimony demonstrate that the proposed programs satisfy the Utility Cost Test ("UCT") and thereby establish that the proposed programs are cost-effective. The Signatories agree to not contest SPS's UCT calculations for purposes of this Stipulation. The Signatories further agree that the following portfolio of energy efficiency and load management ("EE/LM") programs and program support activities proposed under SPS's 2014 Plan should be approved by the Commission:

Residential Segment

- a. Energy Feedback Pilot
- b. Evaporative Cooling Rebates
- c. Home Energy Services ("HES") (including Low-Income HES program)
- d. Home Lighting & Recycling
- e. Refrigerator Recycling
- f. School Education Kits
- g. Residential Saver's Switch

Business Segment

- a. Business Comprehensive:
 - Computer Efficiency
 - Cooling Efficiency
 - Custom Efficiency
 - Large Customer Self-Direct
 - Lighting Efficiency (includes Small Business Lighting)
 - Motor & Drive Efficiency
 - Building Tune-Up
- b. Interruptible Credit Option
- c. Saver's Switch for Business

Planning & Research Segment

- a. Consumer Education
- b. Market Research
- c. Measurement and Verification
- d. Planning and Administration
- e. Product Development

1.2 2014 Plan/Program Modifications and Future Program Commitments

The Signatories agree to the following modifications for the 2014 Plan as specified below.

Residential Programs, as modified

(a) **Home Lighting & Recycling Program:** The Home Lighting & Recycling Program will include more Compact Florescent Bulbs (“CFL”) promotions and giveaways in 2014 and 2015 than those being offered in current programs. In connection with these activities, SPS will conduct a comprehensive study in 2014 for its New Mexico service area to determine alternative methods to distribute and promote CFLs with improved net to gross ratios to provide greater cost-effectiveness. SPS anticipates the cost impact from both of these modifications should be minimal, and thus no budget modification for 2014 or 2015 will be necessary.

(b) **Refrigerator Recycling Program:** SPS will take the first quarter of 2014 to evaluate additional marketing strategies for the 2014 and 2015 program years, which will seek to improve customer interest, awareness, and participation from communities and local organizations in this program. As an example, SPS will undertake a “Refrigerator Giveaway” promotion in conjunction with local Earth Day celebration activities. SPS anticipates the cost

impact to the program to be minimal, and thus will be able to incorporate additional participation in the program within the proposed 2014 and 2015 budgets.

(c) **School Education Kits:** SPS will add one additional 13-watt CFL and one additional 18-watt CFL to the school education kits to increase the total number of CFLs per kit to four. SPS anticipates the cost impact to the program to be minimal, and thus will be able to include the additional CFLs within the proposed 2014 and 2015 budgets.

(d) **HES - Low-Income:** In 2014, SPS will work within the existing HES budget to implement an energy efficiency kit similar to the kit offered under the School Education Kits program. SPS will utilize the Low-Income Home Energy Assistance Program (*i.e.*, LIHEAP) database operated by the New Mexico Human Services Department to target distribution of these kits. In addition, SPS will identify and work with other local community organizations with access to the low-income customer population.

(e) **Evaporative Cooling:** In 2014, SPS will evaluate the feasibility of implementing rebates to retailers in the SPS service territory who sell evaporative coolers. If this modification is found to be cost-effective under the UCT, SPS will file a motion to modify the program and budget for the 2015 program year.

Business Programs, as modified

(f) **Large Commercial and Industrial (“C&I”) Customer Studies:** In 2014, SPS will lower the threshold for customer participation in studies from 10 gigawatt-hours (“GWh”) and 2 MW to 7 GWh and 1 MW, respectively. It is expected that the lower thresholds will allow for the additional participation of four large C&I customers who have not previously participated in SPS’s energy efficiency and load management offerings, increasing the number of customers eligible for study to 13. SPS anticipates the cost impact to the program to be minimal, and thus will be able to incorporate additional studies within the proposed 2014 and 2015 budgets.

(g) **Oil and Gas Customers:** In 2014, SPS will evaluate additional energy efficiency technologies under this program using the UCT, and will evaluate the potential benefit of adding a subject-matter expert to provide training. SPS will conduct these evaluative efforts in 2014 within the proposed 2014 Plan budget. If these measures are determined to be cost-effective

under the UCT, SPS will file a motion to modify the program and budget for the 2015 program year.

(h) **Business Comprehensive:** In 2014, Public Service Company of Colorado (“PSCo”), an affiliate of SPS, is planning to undertake a pilot program to implement upstream lighting incentives to retailers. SPS will evaluate best practices for application of the PSCo pilot program in SPS’s New Mexico service area and will propose to include all or part of the pilot program, to the extent such implementation is cost effective, in its 2016 EE/LM filing.

Additional Commitments Regarding EE Program Implementation and Reporting

(i) **Increased Bi-Lingual and Spanish Only Marketing:** SPS will create bi-lingual program marketing materials for distribution in 2014. SPS anticipates this can be completed within the existing budget proposed in the 2014 Plan.

(j) **Trade Ally Development:** SPS agrees with the parties that trade development in its service area is necessary. In this regard, SPS will develop communication and education strategies for trade allies based on program assessments and surveys from PSCo’s demand-side management programs. SPS will also consult with the Southwest Energy Efficiency Project (“SWEEP”) and others to improve its trade ally strategies and networking. SPS anticipates the cost impact to be minimal and will incorporate these efforts under the existing 2014 Plan budgets.

(k) **Coordination with Gas Utilities:** In 2014, SPS agrees to coordinate with SWEEP and the gas utilities in its service area to evaluate interest and opportunity for combined gas and electric programs. Depending on the outcome of these working sessions, SPS will file a motion to modify the 2014 Plan or propose to include any programs in its 2016 Energy Efficiency and Load Management Plan.

(l) **Periodic Status Meetings:** SPS will hold two meetings in the second and fourth quarters of 2014 to provide status updates to the Signatories, as well as Occidental regarding SPS’s progress concerning the above-listed program modifications for 2014 and 2015.

(m) **Reporting Requirements:** SPS shall provide the Commission, the Signatories and Occidental with a quarterly report of actual participation by program, of actual spending by

program, of actual spending targeted to low-income customers, and of actual EE Rider recoveries by rate class across all affected rate classes. The report shall be provided by the last day of the month following each calendar quarter which is the subject of the report. The first calendar quarter to be reported shall be the first full calendar quarter following the Commission Final Order in this proceeding. In the Annual Report for Energy Efficiency and Load Management Programs that includes the statewide independent evaluator's report, SPS shall provide a table that breaks down the distribution of participant incentives by rate class across all affected rate classes. Notwithstanding the provisions of this Stipulation, nothing in this agreement shall restrict SPS or any other interested party from requesting that the Commission modify or terminate a program for good cause.

1.3. Support for Commission Granting SPS's Request to Lower its 2014 Minimum Savings Requirements under the EUEA

(a) Section 62-17-5(G) requires SPS to achieve savings of five percent of its 2005 net retail customer sales (*i.e.*, 3,750,469 MWh) by 2014, or 187.5 GWh (net customer).

(b) SPS's Application explains and justifies SPS's requests to lower its 2014 minimum level of cumulative energy efficiency savings, as allowed under Section 62-17-5(H).

(c) The Signatories do not oppose SPS's request for Commission approval to lower its 2014 minimum level of cumulative energy savings requirements to 171.574 GWh (net customer).

1.4. Support for Commission Approval of SPS's 2014 EE Rider

SPS's Application requests approval to continue to use its EE Rider to recover the costs incurred for its EE/LM programs approved for 2014 and 2015. SPS will charge one tariff rider rate, which includes collection of program expenses and the incentive.

The Signatories support Commission approval of SPS's 2014 EE Rider, as modified below:

(a) In the 2014 EE Rider, SPS will revise the methodology for calculating its tariff rider from a kWh-based rate, adjusted for losses, to a percentage of bill rate.

(b) The amount collected under the 2014 and 2015 EE Riders for annual program expenses will be set at three percent (3.0%) of customer bills (*i.e.*, billed revenue under SPS's current rates), excluding gross receipts tax, franchise, and right-of-way fees, or \$75,000 per customer per calendar year, whichever is less, but not including any approved incentives authorized for recovery. SPS's recovery of incentives (*see* Section 2. below) will be in addition to the three percent program funding level, as authorized under Section 62-17-6(A).

(c) Within 10 days of Commission approval of its 2014 Plan, SPS will file an advice notice to implement the proposed 2014 EE Rider and commence collection under the proposed 2014 EE Rider in the first full billing month after filing the advice notice, provided that there is at least 10 business days for the Signatories and Occidental to review the advice notice prior to collection in the first full billing month after filing the advice notice. If the Signatories and Occidental do not have 10 business days to review the advice notice prior to the first full billing month after filing the advice notice, SPS will implement the proposed 2014 EE Rider in the second full billing month after filing the advice notice.

Tariff Rider Reconciliation and Potential Budget Modifications

(d) SPS's currently existing, Commission-approved, DSM Tracker will continue to operate to compare costs and revenues on a monthly basis and applied carrying charges until the effective date of new rates approved in this case, and on such date the DSM Tracker will terminate. Within 45 days of the DSM Tracker termination, SPS will file a report detailing the ending balance and SPS's proposed treatment and reconciliation of that balance.

(e) Beginning with the date new rates become effective for the 2014 Plan, SPS will annually reconcile: (i) approved program costs (*i.e.* budget) with actual expenditures; (ii) budgeted revenues with actual revenues; and (iii) actual incentive to budgeted incentive (*see* Sections 2.1 and 2.2, below). Based on the annual reconciliation, within 15 days after the end of the calendar year, SPS will submit a statement to the Signatories and Occidental detailing the differences between the budgeted and actual items ("Annual Reconciliation Statement"). SPS will confer with the Signatories and Occidental regarding the Annual Reconciliation Statement to determine whether a budget modification is needed. If a budget modification is needed, within 6 weeks of submitting the Annual Reconciliation Statement, SPS will file a request with the

Commission for a budget modification and notify the Signatories and Occidental. Until the Commission renders a final decision regarding a budget modification request, SPS will continue to operate its EE/LM programs under the then Commission-approved budget. Any budget modifications will be applied to the EE/LM programs' design as approved in this Stipulation.

(f) If an event takes place outside of the annual reconciliation that results in a projected increase or decrease in SPS's total retail revenue of equal to or greater than five percent, SPS shall file a budget modification request within 30 days of such an event.

(g) The Signatories agree to work in good faith to expedite the review process when a budget modification request is submitted.

(h) Beginning with recovery for the 2014 Plan program costs, the Signatories agree that there will be no carrying charges on any revenue over-collection or revenue under-collection, on any over-recovery or under-recovery of program expenses, and on any over-recovery or under-recovery of adjusted incentives.

Section 2. Support for Approval of SPS's Recovery of Incentives for 2013, 2014, and 2015, as authorized by Sections 62-17-5(F) and 62-17-6(A).

SPS's Application requests recovery of financial incentives for 2013, 2014, and 2015 as permitted by Sections 62-17-5(F) and 62-17-6(A). The Signatories support Commission approval authorizing SPS to recover financial incentives because SPS's Application establishes the incentives requested are SPS-specific, cost-based, evidence-based and properly balance the interests of SPS, its customers and the public. The following describes the agreed upon incentives for SPS for 2013, 2014, and 2015:

2.1 2013 Incentive

SPS will receive an incentive equal to 3.185% of the actual EE/LM program spending for the 2013 calendar year. SPS will update its filing for its actual 2013 program spending when the amounts are known in 2014. The 2013 incentive shall be recovered through the 2014 EE Rider, on a constant percentage-of-bill-basis beginning in the first month of implementation of the EE Rider through December 2014, as provided for in Section 1.4 above. In relation to this recovery, SPS will assume that the revenue received is applied first toward the program costs and then to recover the 2013 incentive. The 2013 incentive will be subject to a single annual true-up to

ensure SPS's actual collection equals 3.185% of the actual EE/LM program spending. At this time the 2013 incentive is estimated be \$249,330, and will increase the 2014 Rider collection by an estimated 0.095% from 3.0% to 3.095%.

2.2 2014 Incentive

(a) For 2014, the maximum incentive will be \$550,000.

(b) SPS will receive an incentive based on the following calculation:

\$500,000 (x) Spending Factor ("SF") less low income adjustment ("LIA"),
where:

- SF = SPS's actual EE/LM program spending in 2014 divided by the estimated budget of \$7,883,614, or any other 2014 budget as approved by the Commission;
- LIA = \$0, unless SPS spends less than 5% of its 2014 estimated budget of \$7,883,614 (*i.e.*, \$394,181) or any other 2014 budget as approved by the Commission, on low-income programs, in which case, the LIA is calculated as:
 - Low-Income Spending Shortfall ("LISS") (x) 6.37% (x) 2
where:
 - LISS = \$394,181 minus actual SPS spending in 2014 directed specifically to EE/LM programs for low-income customers.

(c) SPS's 2014 EE Rider will include the 2013 Incentive as described above, the 2014 Incentive, the 2014 program expenses collected at a 3% of bill basis, and the reconciliation amount for the 2013 EE Rider. These amounts will be recovered through the EE Rider on a constant percentage-of-bill-basis beginning in the first month of implementation of the EE Rider through December 2014, as provided for in Section 1.4 above. The 2014 incentive is subject to an annual reconciliation to ensure SPS does not collect any more than \$550,000 and the incentive is consistent with the calculation set forth herein. At this time the 2014 incentive is estimated to be \$500,000 based upon the expected program budget level of \$7,883,614. The 2014 incentive will increase the 2014 Rider collection by an estimated 0.190% from 3.00% to 3.190%.

2.3 2015 Incentive

(a) For 2015, the maximum incentive will be \$600,000.

(b) SPS will receive an incentive based on the following calculation:

\$550,000 (x) Spending Factor (“SF”) (x) Performance-Based Incentive Factor (“PBIF”) less low income adjustment (“LIA”) where:

- SF = SPS’s actual EE/LM program spending in 2015 divided by the budget of \$7,883,614, or any other 2015 budget as approved by the Commission.
- PBIF = independently evaluated or deemed annual net MWh savings for 2015 divided by the annual net customer savings goal of 30,005 MWh.
- LIA = \$0, unless SPS spends less than 5% of its 2015 budget of \$7,883,614 (*i.e.*, \$394,181) or any other 2014 budget as approved by the Commission, on low-income programs, in which case, the LIA is calculated as:
 - Low-Income Spending Shortfall (“LISS”) (x) 7.00% (x) 5 where:
 - LISS = \$394,181 minus actual SPS spending in 2015 directed specifically to EE/LM programs for low-income customers.

(c) SPS’s 2015 Rider will include the 2015 incentive, the 2015 estimated program expenses collected at a 3% of bill basis, and the reconciliation amount for the 2014 EE Rider. The 2015 incentive shall be recovered through the 2015 EE Rider on a constant percentage-of-bill-basis over a 12-month period beginning January 2015 as provided for in Section 1.4 above. The 2015 incentive is subject to an annual reconciliation to ensure SPS does not collect any more than \$600,000 and the incentive is consistent with the calculation set forth herein. At this time the 2015 incentive is estimated to be \$550,000 based upon the expected program budget level of \$7,883,614. The 2015 incentive will increase the 2015 Rider collection by an estimated 0.209% from 3.00% to 3.209%.

Section 3. Support for Approval of SPS's Application and 2014 Plan, as Modified by the Stipulated Agreements

3.1 The Signatories agree the Stipulation represents a reasonable compromise and settlement of contested matters, is a reasonable resolution of the issues in the case, and is in the public interest. Therefore, the Signatories support the Commission granting the approval of SPS's Application and 2014 Plan, as modified by the Stipulation.

Section 4. SPS Compliance with Commission Directives from Prior Cases

4.1 The Signatories agree that SPS has complied with and satisfied the Commission's requirements from Case Nos. 08-00333-UT and 09-00352-UT, which include the following:

(a) SPS's maintenance of data on short-term, non-firm wholesale sales made during economic interruptions (Recommended Decision, Case No. 08-00333-UT, Decretal ¶L), which is addressed in the 2014 Plan at page 60;

(b) SPS's showing of its level of reliance on CFLs under its Home Lighting & Recycling Program (Final Order Adopting Recommended Decision, Case No. 08-00333-UT, Decretal ¶M and Final Order Adopting Certification of Stipulation in Case No. 09-00352-UT, Decretal Paragraph K in the), which is addressed in SPS witness White's direct testimony at page 62; and

(c) The availability of energy efficiency and load management programs in SPS's New Mexico service area that are similar to those offered by SPS's affiliates in Colorado and Minnesota (Recommended Decision, Case No. 08-00333-UT, Decretal ¶O), which is addressed in SPS witness White's direct testimony at page 63 and Attachment SMW-7.

Section 5. Support for Granting Waivers, Variances, and other Approvals

5.1 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 the 2014 Plan.

Section 6. Support for Admission of SPS's Pre-filed Testimony and Other Filings into Record

6.1 The Signatories support the admission into the case record SPS's pre-filed testimony and attachments, and SPS's and the other parties' testimony filed in support of the Stipulation.

Section 7. Effect and Limitation of Stipulation

7.1 This Stipulation has been drafted by all the Signatories and is the result of negotiation, compromise, settlement, and accommodation among the Signatories with respect to the issues set out in this Stipulation. As described earlier, the Stipulation resolves all issues concerning SPS's Application in this case. The Signatories agree that the Stipulation is in the public interest and should be approved and accepted by the Commission.

7.2 The Signatories further agree that the terms and conditions set out in this Stipulation are interdependent and that the various provisions of this Stipulation are not severable. None of the provisions of this Stipulation shall become fully operative unless the Commission enters an order approving this Stipulation. If the Commission issues an order inconsistent with the terms of this Stipulation, each Signatory has the right to withdraw from this Stipulation, to take action to protect its interests, and to advocate any position it deems appropriate with respect to any issue in this Stipulation.

7.3 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 this 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 before the Commission. 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, regardless of whether other 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. By agreeing to this Stipulation, no Signatory waives any claim it may otherwise have with respect to issues not expressly provided for in this Stipulation. In particular, notwithstanding this Stipulation, the Signatories reserve the right to contest any calculation made or value used in future applications of the UCT which, in their sole and individual discretion, is believed to not be consistent with future EE Rule requirements or is inappropriate for the intended purpose.

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

Section 8. Multiple Counterparts

8.1 The Stipulation may be executed in any number of counterparts, including by telefax or PDF signature, each of which shall separately 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 January 6, 2014.

By: 

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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INCENTIVES FOR 2013-2015; (C) COST)
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REQUEST TO ESTABLISH LOWER)
MINIMUM SAVINGS REQUIREMENTS FOR)
2014 UNDER THE EFFICIENT USE OF)
ENERGY ACT,)
)
SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
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)
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APPLICANT.)

CASE NO. 13-00286-UT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 6, 2014, a true and correct copy of the *Uncontested Stipulation* was delivered in the manner indicated below to each of the following persons:

VIA FEDERAL EXPRESS AND E-MAIL:

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