

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before the Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Black Hills/Kansas)
Gas Utility Company, LLC, d/b/a Black Hills Energy,)
For a certificate of Public Convenience and Authority) Docket No. 19-BHCG-094-COC
to Transact the Business of a Natural Gas Public Utility)
in a Portion of Seward County Kansas.)

ORDER GRANTING APPLICATION

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

I. Background

1. On August 30, 2018, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (“Black Hills”) filed an Application requesting permission for Certificate of Convenience and Necessity in one half section of land in Seward, Kansas.¹

2. Black Hills requests that it be granted permission to operating as an natural gas public utility in the following described territory to wit:

East 1/2 of Section 27, Township 32 South, Range 31 West, Seward County, Kansas.²

3. On September 11, 2018, the Commission Staff (“Staff”) submitted its Report and Recommendation dated September 10, 2018, recommending the Commission grant Black Hill’s

¹ *Black Hills/Kansas Gas Utility Company, LLC Second Amended Application*, (“Black Hill’s Application”), (Sep. 13, 2018).

² *Report and Recommendation*, at 3 (Sept. 10, 2018).

request for permission to operating as a natural gas public utility in the territory described in paragraph 2 above.³

II. Legal Standards and Discussion

4. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. The standard for granting a certificate under K.S.A. 66-131 is that public convenience and necessity will be promoted by the granting of a certificate. K.S.A. 66-1,201 et seq., more specifically, gives the Commission full power, authority and jurisdiction to supervise and control natural gas public utilities and is authorized to do anything necessary and convenient for the exercise of such power, authority and jurisdiction.

5. Plains Producers Association, Inc. (“Plains”), is currently operating in the west half of Section 27, T32S, R31W. In Plains’ Certificate of Convenience issued on May 20, 1999, Plains states their Certificate would not foreclose others from filing an application to provide natural gas service in Seward County.⁴

6. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by the granting Black Hill’s Application to operate as a natural gas public utility in the portion of land described above in paragraph 2.

III. Findings and Conclusion

7. The Commission finds pursuant to K.S.A. 66-131, public convenience and necessity will be promoted by granting the Black Hill’s Application for permission to operate as a natural gas public utility in area described above in paragraph 2.

³ *Report and Recommendation*, at 1.

⁴ 99-PPAG-669-COC.

8. The Commission adopts Staff's Report and Recommendation dated September 10, 2018, which is attached hereto and made a part hereof by reference.

THEREFORE, THE COMMISSION ORDERS:

A. Black Hill's Application requesting permission for Certificate of Convenience and Necessity is granted pursuant to K.S.A. 66-131.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁵

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/04/2018



Lynn M. Retz
Secretary to the Commission

cab

⁵ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

STATE OF KANSAS



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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Jason Kerr, Electric Utility Engineering Technician
Leo Haynos, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: September 10, 2018

SUBJECT: 19-BHCG-094-COC
In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, for a certificate of Public Convenience and Authority to Transact the Business of a Natural Gas Public Utility in a Portion of Seward County, Kansas.

EXECUTIVE SUMMARY

In Docket 19-BHCG-094-COC, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) filed an Application for Certificate of Convenience and Necessity in one half section of land in Seward, Kansas.

Staff recommends that the Commission grant this Application and find that public convenience will be promoted by this transaction.

BACKGROUND:

On August 30, 2018, Black Hills filed the above captioned Application requesting a natural gas Certificate for one 320 acre section of land.

The Commission has authority to grant a certificate of convenience and necessity to any public utility seeking to transact business in the State of Kansas.¹

¹ K.S.A. 2016 Supp. 66-131.

The statutory standard of review in this matter is whether the public convenience will be promoted by the transaction of the proposed project and by permitting the Applicant to transact the business of a common carrier or public utility.

ANALYSIS:

Black Hills has been approached by an irrigator requesting natural gas service to fuel his irrigation engines. Plains Producers Association, Inc. (Plains), a Non-Profit Utility holds a Certificate of Convenience and Necessity in the west half of Section 27, T32S, R31W. In its Application, Plains noted its requested Certificate would not foreclose others from filing applications to provide natural gas service in Seward County and is consistent with transition to a more competitively-based energy provider environment.²

Staff has reviewed Black Hill's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment 1 to this Report and Recommendation.

The Commission action date is August 25, 2018.

RECOMMENDATION:

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction.

² 99-PPAG-669-COC

ATTACHMENT 1
Legal Description of Requested Natural Gas Territory
Black Hills/Kansas Gas Utility Company, LLC.
Docket No. 19-BHCG-094-COC

SEWARD COUNTY, KANSAS

East 1/2 of Section 27, Township 32 South, Range 31 West.

CERTIFICATE OF SERVICE

19-BHCG-094-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
10/04/2018
electronic service on _____.

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/S/ DeeAnn Shupe

DeeAnn Shupe