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April 8, 2024

Lynn M. Retz
Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

RE: Docket No. 24-BHCG-652-ACQ
Direct Testimony of Nicholas W. Smith

Dear Ms. Retz:

Enclosed for filing is the Direct Testimony of Nicholas W. Smith, in support of the Application for Acquisition and Tariff Revision filed on behalf of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy.

Respectfully submitted,

/s/ Douglas J. Law

Douglas J. Law, KS Bar #29118
Associate General Counsel

DL:ce

cc: Service List
Rob Daniel
Ann Stichler
Nick Smith

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

IN THE MATTER OF THE APPLICATION OF) Docket No. 24-BHCG-652-ACQ
BLACK HILLS/KANSAS GAS UTILITY)
COMPANY, LLC, D/B/A BLACK HILLS)
ENERGY, FOR APPROVAL OF ITS)
PURCHASE OF FARM TAP DOMESTIC)
METER FACILITIES USED TO SERVICE)
CERTAIN CUSTOMERS FROM SOUTHERN)
STAR AND THE APPROVAL OF REVISIONS)
TO TARIFF LANGUAGE ON STORM URI)
CHARGES FOR NEW ACQUISITIONS.)

DIRECT TESTIMONY OF NICHOLAS W. SMITH

ON BEHALF OF

BLACK HILLS/KANSAS GAS UTILITY
COMPANY, LLC, d/b/a BLACK HILLS ENERGY

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Nicholas W. Smith, and my business address is 601 N. Iowa Street, Lawrence,
4 Kansas 66049.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Black Hills Service Company, LLC. (“BHSC”) as the Manager of
7 Regulatory for the state of Kansas. BHSC is a wholly owned subsidiary of Black Hills
8 Corporation (“BHC”).

9 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

10 A. I am testifying on behalf of Black Hills/Kansas Gas Utility Company, LLC (“Black Hills”
11 or “the Company”).

12 **II. STATEMENT OF QUALIFICATIONS AND PURPOSE OF TESTIMONY**

13 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND BUSINESS**
14 **EXPERIENCE.**

15 A. I received a Bachelor of Science in Biological Sciences and a Master of Science in
16 Biological Systems Engineering from Virginia Tech and a Master of Business
17 Administration from Liberty University. From February 2015 through January 2023, I
18 worked for Dominion Energy in various environmental, regulatory, and analyst roles
19 supporting their natural gas, electric, renewable, and nuclear footprint. In January 2023, I
20 joined Black Hills as the Manager of Regulatory for the state of Kansas.

21 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

22 A. No, this is the first time I have provided testimony before the Kansas Corporation

1 Commission.

2 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

3 A. The purpose of my testimony is to provide information in support of the Black Hills
4 application (“Application”) for Commission approval of an acquisition of approximately
5 273 farm tap domestic meters (“Domestic Meters”) from Southern Star Central Gas
6 Pipeline, Inc. (“Southern Star”), under an Asset Purchase Agreement (“APA”) previously
7 filed in this Docket. Through my testimony, Black Hills demonstrates that Commission
8 approval of the Application is in the public interest. My testimony explains how the
9 Commission’s merger standards for determining public interest, as outlined in the
10 Commission Order from Docket Nos. 172,745-U and 174,155-U (“Merger Standards”),
11 were applied to this farm tap acquisition transaction.

12 **III. BACKGROUND INFORMATION**

13 **Q. PLEASE PROVIDE A BRIEF BACKGROUND OF THE PROPOSED**
14 **TRANSACTION.**

15 A. Southern Star is a natural gas company primarily in the business of transporting and storing
16 natural gas via interstate commerce. The Southern Star system includes roughly two-
17 thousand Domestic Meters that are served directly off farm taps which were typically
18 installed due to Southern Star’s obligation to acquire and then maintain transmission
19 system pipeline easements. Recently, Southern Star made the business decision to abandon
20 by sale Domestic Meter customers to qualified, local distribution companies such as Black
21 Hills.

22 On February 28, 2024, Southern Star received Federal Energy Regulatory

1 Commission (“FERC”) regulatory approval to abandon by sale approximately 273
2 Domestic Meter customers to Black Hills pursuant to the APA. The Domestic Meter assets
3 to be acquired by Black Hills (“Assets”) include all physical facilities, customer accounts,
4 technical information, and easements or other land rights as applicable. The APA is subject
5 to multiple conditions prior to closing including Commission approval of the Application.

6 **Q. PLEASE BRIEFLY DESCRIBE BLACK HILLS’ OPERATIONS IN THE STATE**
7 **OF KANSAS.**

8 A. Black Hills is duly authorized to transact business in the State of Kansas and holds
9 appropriate certificates from the Commission to transact business as a natural gas public
10 utility, and engages in the purchase, transmission, sale, and distribution of natural gas
11 throughout the state. Black Hills serves approximately 118,000 customers in sixty-eight
12 communities and in forty-eight surrounding counties in Kansas.

13 **IV. COMMISSION MERGER STANDARDS**

14 **Q. WHAT ARE THE COMMISSION’S MERGER STANDARDS?**

15 A. The Commission’s Merger Standards are a collection of eight factors, derived from the
16 Commission Order in Docket Nos. 172,745-U and 174,155-U, which can be used as a
17 guideline for the Commission to determine if a merger will promote the public interest.
18 The Merger Standards are as follows:

19 a) The effect of the transaction on consumers, including:

- 20 i. the effect of the proposed transaction on the financial condition of the newly
21 created entity as compared to the financial condition of the stand-alone
22 entities if the transaction did not occur;

- 1 ii. reasonableness of the purchase price, including whether the purchase price
- 2 was reasonable in light of the savings that can be demonstrated from the
- 3 merger and whether the purchase price is within a reasonable range;
- 4 iii. whether ratepayer benefits resulting from the transaction can be quantified;
- 5 iv. whether there are operational synergies that justify payment of a premium in
- 6 excess of book value;
- 7 v. the effect of the proposed transaction on the existing competition.
- 8 b) The effect of the transaction on the environment.
- 9 c) Whether the proposed transaction will be beneficial on an overall basis to state and
- 10 local economies and to communities in the area served by the resulting public utility
- 11 operations in the state.
- 12 d) Whether the proposed transaction will preserve the jurisdiction of the KCC and the
- 13 capacity of the KCC to effectively regulate and audit public utility operations in the
- 14 state.
- 15 e) The effect of the transaction on affected public utility shareholders.
- 16 f) Whether the transaction maximizes the use of Kansas energy resources.
- 17 g) Whether the transaction will reduce the possibility of economic waste.
- 18 h) What impact, if any, the transaction has on public safety.

19 **Q. HAVE THE MERGER STANDARDS BEEN USED PREVIOUSLY BY THE**
20 **COMMISSION FOR DETERMINING THE PUBLIC INTEREST OF**
21 **ACQUISITIONS?**

22 A. Yes, the Commission has previously used the Merger Standards to help determine the

1 public interest of potential acquisitions including the Black Hills acquisition of Anadarko's
2 HRDS system (Docket numbers 13-BHCG-509-ACQ and 16-BHCG-144-ACQ). The
3 Merger Standards, therefore, should continue to serve as an effective tool to help the
4 Commission determine if this proposed acquisition is reasonable and in the public interest.

5 **Q. PLEASE RESTATE MERGER STANDARD (a).**

6 A. Merger Standard (a) considers the effect of the transaction on consumers and is broken into
7 five sub parts, each of which will be addressed in turn:

- 8 1. The effect of the proposed transaction on the financial condition of the newly created
9 entity as compared to the financial condition of the stand-alone entities if the
10 transaction did not occur.
- 11 2. The reasonableness of the purchase price, including whether the purchase price was
12 reasonable in light of the savings that can be demonstrated from the merger and
13 whether the purchase price is within a reasonable range.
- 14 3. Whether ratepayer benefits resulting from the transaction can be quantified.
- 15 4. Whether there are operational synergies that justify payment of a premium in excess
16 of book value.
- 17 5. The effect of the proposed transaction on the existing competition.

18 **Q. PLEASE DESCRIBE HOW THE PROPOSED TRANSACTION IMPACTS THE**
19 **FINANCIAL CONDITION OF THE ENTITIES INVOLVED AND ANY NEWLY**
20 **CREATED ENTITIES.**

21 A. The proposed transaction does not present a negative impact on Black Hills' or Southern
22 Star's financial conditions and no new entities will be created from this transaction. In

1 FERC Docket No. CP24-22-000, Southern Star specifically mentions that Domestic Meters
2 are “not a primary part of its business” and therefore selling these Assets to Black Hills
3 should not pose a threat to their financial condition. Southern Star will continue to provide
4 the gas used to serve these customers and thus will continue to receive revenue even after
5 the completion of this sale.

6 Black Hills will be purchasing these Assets well below book value and is in a
7 strong position to serve these customers through existing resources. Increasing the
8 customer base for Black Hills within Kansas will strengthen the financial condition of the
9 Company.

10 **Q. IS THE PURCHASE PRICE PAID REASONABLE?**

11 A. Yes. As shown within the APA, Black Hills is paying below book and market value for all
12 Assets in this transaction.

13 **Q. CAN THE CUSTOMER BENEFITS FROM THIS TRANSACTION BE**
14 **QUANTIFIED?**

15 A. Of the proposed 273 Domestic Meter customers being acquired in this transaction,
16 Southern Star currently serves forty-one (41) meters directly, Black Hills Energy serves
17 two (2) meters, Atmos Energy directly serves eleven (11) meters, and Kansas Gas Service
18 (“KGS”) directly serves two hundred nineteen (219) meters. A transition of direct service
19 from Atmos Energy or KGS to direct service with Black Hills will lead to a significant cost
20 savings on the customer’s average monthly bill.

21 **Q. IS BLACK HILLS ENERGY PAYING A PREMIUM IN EXCESS OF THE BOOK**
22 **VALUE OF THESE ASSETS?**

1 A. No. The APA's purchase price for all Assets is below book value.

2 **Q. WHAT IS THE EFFECT OF THE PROPOSED TRANSACTION ON EXISTING**
3 **COMPETITION?**

4 A. As previously mentioned, Southern Star is primarily in the business of transporting and
5 storing natural gas via interstate commerce. The natural gas service currently provided by
6 Southern Star to the Domestic Meters will be transferred to Black Hills. Black Hills will
7 serve these customers as a public utility in the state of Kansas subject to the jurisdiction of
8 the Commission. Black Hills will obtain the natural gas from natural gas suppliers and
9 then transport that natural gas under transportation agreements between Black Hills and
10 Southern Star for these farm tap customers. Accordingly, there will be no negative impact
11 on competition for the retail sale or interstate transmission of natural gas between the two
12 companies. Any competition for the acquired Domestic Meters gas service going forward
13 may only come from providers of alternative fuel sources.

14 **Q. DOES THE PROPOSED TRANSACTION SATISFY ALL FIVE SUB PARTS OF**
15 **MERGER STANDARD (a)?**

16 A. Yes.

17 **Q. PLEASE RESTATE MERGER STANDARD (b).**

18 A. Merger Standard (b) considers the effect of the transaction on the environment.

19 **Q. WHAT IS THE EFFECT OF THIS PROPOSED TRANSACTION ON THE**
20 **ENVIRONMENT?**

21 A. This transaction should have no impact to the environment. The Assets will transfer
22 ownership from Southern Star to Black Hills, but the natural gas to service these customers

1 will continue to come from the existing farm tap facilities on Southern Star's pipeline.

2 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (b)?**

3 A. Yes.

4 **Q. PLEASE RESTATE MERGER STANDARD (c).**

5 A. Merger Standard (c) considers whether the proposed transaction will be beneficial overall
6 to the state and local economies. It also considers the impact of the proposed transaction
7 on the communities in the area served by the resulting utility operations in the state. An
8 additional consideration to whether the proposed transaction will likely create labor
9 dislocations harmful to the local community or the state must be addressed. Any measures
10 that can be taken to mitigate the harm from this transaction should be included.

11 **Q. HOW WILL THE PROPOSED TRANSACTION IMPACT THE COMMUNITIES
12 IN THE AREA AND THE STATE AND LOCAL ECONOMIES?**

13 A. The Domestic Meter customers included in the proposed transaction will continue to
14 receive safe, reliable natural gas service from a company that specializes in local
15 distribution as its principal business in the state of Kansas. The local and state economies
16 will be maintained or improved from the long-term stability this transfer of ownership will
17 provide to both the residential and non-residential customers. Southern Star's transfer of
18 Domestic Meters to local distribution companies, such as Black Hills and KGS, will
19 simplify their business and allow them to focus on their primary business model. There are
20 no labor dislocations to consider with this transaction.

21 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (c)?**

22 A. Yes.

1 **Q. PLEASE RESTATE MERGER STANDARD (d).**

2 A. Merger Standard (d) considers whether the proposed transaction will preserve or increase
3 the jurisdiction of the Commission and the capacity of the Commission to effectively
4 regulate and audit the public utility operations in the state.

5 **Q. WHAT IMPACT WILL THE PROPOSED TRANSACTION HAVE ON THE**
6 **COMMISSION'S JURISDICTION AND CAPACITY TO EFFECTIVELY**
7 **REGULATE AND AUDIT PUBLIC UTILITIES?**

8 A. Black Hills is a regulated, local distribution utility and as such, is directly subject to
9 oversight and regulation by the Commission. The Domestic Meter customers acquired in
10 this transaction will be subject to the Black Hills tariff which is also under the regulatory
11 authority of the Commission. Customers in this transaction will have the right to contact
12 or file a complaint with the Commission should the need arise.

13 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (d)?**

14 A. Yes.

15 **Q. PLEASE RESTATE MERGER STANDARD (e).**

16 A. Merger Standard (e) considers the effect of the transaction on the public utility's
17 shareholders.

18 **Q. WHAT IMPACT WILL THE PROPOSED TRANSACTION HAVE ON BLACK**
19 **HILLS SHAREHOLDERS?**

20 A. Black Hills' parent company, BHC, is a publicly traded utility with a market cap of
21 approximately \$3.66 Billion. BHC shareholders will be positively, although relatively
22 minimally, impacted by this transaction. The below book value purchase price for these

1 Assets is a financially beneficial transaction. The ongoing operational and maintenance
2 expense will allow the Company an opportunity to earn an overall rate of return approved
3 by the Commission on the natural gas service moving forward.

4 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (e)?**

5 A. Yes.

6 **Q. PLEASE RESTATE MERGER STANDARD (f).**

7 A. Merger Standard (f) considers whether the transaction maximizes the use of Kansas energy
8 resources.

9 **Q. DOES THIS TRANSACTION HELP TO MAXIMIZE THE USE OF KANSAS
10 ENERGY RESOURCES?**

11 A. By purchasing the Assets below book value, Black Hills will ensure that hundreds of
12 Kansas Domestic Meter customers will continue to receive safe, reliable natural gas service
13 for both residential and non-residential purposes at very low cost to the public utility.
14 Financially prudent business decisions, such as this transaction, benefit all Black Hills
15 customers by spreading operational and capital costs over additional ratepayers.

16 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (f)?**

17 A. Yes.

18 **Q. PLEASE RESTATE MERGER STANDARD (g).**

19 A. Merger Standard (g) considers whether the transaction will reduce the possibility of
20 economic waste.

21 **Q. DOES THIS PROPOSED TRANSACTION REDUCE THE POSSIBILITY OF
22 ECONOMIC WASTE?**

1 A. Yes. By transferring ownership of Assets from Southern Star to Black Hills, the
2 investments previously made in the facilities, equipment, labor, etc. will be preserved. If
3 natural gas were no longer a viable fuel source to these Domestic Meter customers, the
4 transition to alternative fuel sources, including appliances and the fuel itself, to meet their
5 heating, cooking, or business needs would be significant.

6 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (g)?**

7 A. Yes.

8 **Q. PLEASE RESTATE MERGER STANDARD (h).**

9 A. Merger Standard (h) considers the impact, if any, the transaction will have on the public
10 safety.

11 **Q. DOES THIS PROPOSED TRANSACTION IMPACT PUBLIC SAFETY?**

12 A. The proposed transaction improves public safety by transferring ownership of Assets from
13 Southern Star, a company with a primary focus on the interstate transmission of natural
14 gas, to Black Hills – a company that specializes in the local distribution of natural gas. Per
15 the APA, all facilities, pipes, and installations on the downstream side of the first above-
16 ground valve located over the transmission lines of Southern Star will be sold to Black
17 Hills. Therefore, this transfer of Assets will also improve public safety by simplifying the
18 responsible party for all testing, maintenance, and replacement of these facilities.

19 **Q. DOES THE PROPOSED TRANSACTION SATISFY MERGER STANDARD (h)?**

20 A. Yes.

21 **V. ADDITIONAL INFORMATION**

22 **Q. WHAT NEW RATES WILL THE DOMESTIC METER CUSTOMERS BE**

1 **CHARGED?**

2 A. All Domestic Meter customers will be charged the Commission-approved Company rates,
3 charges, taxes, and fees as described in the currently approved tariff. For customers in this
4 transaction currently receiving special rates from Southern Star, Black Hills will bill
5 Southern Star for the difference between the tariff and special rates. This ensures the
6 discounted rates negotiated by these customers will continue to be honored and that Black
7 Hills is made whole.

8 **Q. HOW WILL THE IMPACTED CUSTOMERS BE NOTIFIED OF THE CHANGES**
9 **TO THEIR NATURAL GAS SERVICE?**

10 A. A letter will be sent from Black Hills to all customers potentially impacted by this
11 acquisition. This letter will provide, at a minimum, an introduction to Black Hills, the
12 reason for the change of service from Southern Star to Black Hills, the acquisition
13 application Docket Number, the phone number to a dedicated customer support line to
14 address any questions, and the website address for new customer onboarding.

15 **VI. CONCLUSION**

16 **Q. WHAT DOES THIS TESTIMONY SHOW?**

17 A. This testimony provides additional support of the Application filed in this Docket. Since
18 the proposed acquisition meets all the Commission’s Merger Standards, the Commission
19 should find the proposed transaction to be in the public interest and approved.

20 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

21 A. Yes.

CERTIFICATE OF SERVICE

24-BHCG-652-ACQ

I, the undersigned certify that a true and correct copy of the foregoing was served via electronic service this 13th day of October, 2023 to the following:

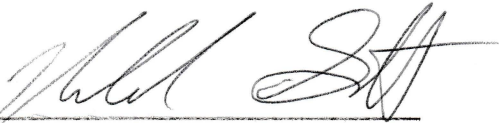
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/s/ Douglas J. Law
Douglas L. Law

AFFIDAVIT OF NICHOLAS W. SMITH

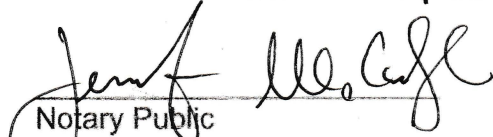
State of Kansas)
) ss
County of Douglas)

I, NICHOLAS W. SMITH, being first duly sworn on oath, depose and state that I am the same Nicholas W. Smith identified in the foregoing Testimony; that I have caused the foregoing Testimony to be prepared and am familiar with the contents thereof; and that the foregoing Testimony is true and correct to the best of my knowledge, information, and belief as of the date of this Affidavit.



Nicholas W. Smith

Subscribed and sworn to before me,
A Notary Public, in and for said County
and State, this 0th day of April 2024



Notary Public

My Commission expires: 12/29/25

