

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

IN THE MATTER OF A GENERAL)
INVESTIGATION UPDATING THE)
CERTIFICATES OF CONVENIENCE AND)
NECESSITY ISSUED TO KANSAS GAS)
SERVICE, A DIVISION OF ONE GAS, INC. AND)
BLACK HILLS/KANSAS GAS UTILITY)
COMPANY, LLC d/b/a BLACK HILLS ENERGY)
IN COWLEY, SEDGWICK, SUMNER, RENO,)
AND RICE COUNTIES TO PROVIDE NATURAL)
GAS SERVICE.)

Docket No. 25-GIMG-114-GIG

REPLY COMMENTS OF
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC
D/B/A BLACK HILLS ENERGY

COME NOW Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (“Black Hills” or “the Company”), submits the following Reply Comments in the above-captioned matter.

1. On August 12, 2024, the Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission”, respectively) filed a Report and Recommendation (“R&R”) that the Commission initiate a general investigation to update the Certificates of Convenience and Necessity (“COC”) issued to Kansas Gas Service, a Division of ONE Gas, Inc. (“KGS”) and Black Hills.

2. On October 22, 2024, the Commission opened a general investigation (“Order”) to update the COCs issued to KGS and Black Hills in Cowley, Sedgwick, Sumner, Reno, and Rice counties, and to resolve the current service dispute in the territory annexed by the City of Goddard (“Goddard”) in 2009. Within this Order, the Commission granted KGS and Black Hills 60 days to

address service issues as to the territory annexed by the City of Goddard in 2009¹, as discussed in Staff's R&R.

3. On November 27, 1935, within Docket 16,167, the Commission granted Black Hills' predecessor (henceforth referred to as "Black Hills") a COC to provide natural gas service, outside of certain city limits, within the counties of Allen, Cowley, Reno, Rice, Neosho, Sedgwick, Sumner, Montgomery, and Wilson. In the 1964 Docket 75,015, the Commission granted KGS' predecessor (henceforth referred to as "KGS") a COC to provide natural gas service within Sections 26 through 35 of Range 02W, Township 27S ("27S02W") in Sedgwick County. A KCC map of Gas Utility Certificated Areas within Sedgwick County is shown on Attachment A. The approximate location of the residential housing development ("Development"), which Staff referenced in their R&R as having initiated this disagreement, has been added to the map shown in Attachment A.

4. As Staff also noted in their R&R, the Commission has previously stated that certification rights cannot be given to a utility through the annexation and expansion of city limits²; therefore, it would also stand to reason that certification rights cannot be removed through the annexation and expansion of city limits, either. Since the Development is being constructed entirely within Section 21 of 27S02W, Black Hills maintains that it holds the sole certificated right to serve this Development and any other customers within this Section. Regardless of political boundary changes to the City of Goddard since 1964, no Commission Order had been issued to allow KGS to provide natural gas service to this Section and, therefore, to this Development. Considering these factors, Black Hills respectfully requests that the Commission require KGS to abandon its service

¹ Order Opening General Investigation and Setting Comment Deadlines dated October 22, 2024, p. 4.

² Notice of Filing Staff's Report and Recommendations dated August 12, 2024, p. 1.

of the Development and permit service to the Development by Black Hills. In exchange, Black Hills will compensate KGS for the infrastructure installed to service the Development.

5. A map of Black Hills' current, active service lines, with the approximate location of the Development, are highlighted in pink and green within Attachment B. The proximity of Black Hills' existing infrastructure, paired with Black Hills' solely certificated right to serve this Development, shows that the Company was ready, willing, and able to install natural gas service in a safe, timely, cost-effective manner to this Development and the surrounding area.

6. Black Hills also requests that the Commission Order KGS to refrain from operating within Black Hills' solely certificated areas without first obtaining permission from the Commission, as this is not the first instance of KGS expanding into Black Hills' solely certificated territory within Sedgwick County. Attachment C highlights, in gold, the various Sections within Black Hills' solely certificated territory that KGS currently operates within. To the best of Black Hills' knowledge, no Commission approval has been obtained by KGS to operate in these areas.

7. Black Hills and Atmos Energy recently experienced a similar situation to this Docket for a new development on the western outskirts of the City of Lawrence. In contrast to KGS' dismissal of Black Hills' certification rights shown in Attachment C, Black Hills and Atmos worked together to coordinate applications within Dockets 25-ATMG-096-CCS and 25-BGCG-097-COC to ensure the Commission's sole authority to grant or revise a COC was upheld. Black Hills contends that KGS should be required to file a similar request to the Commission if they determine they are better positioned to serve customers within Black Hills' sole certificated territories.

8. Black Hills contends that no adjustments are necessary to the COCs for Sections within 27S02W. The Order requires the utilities consider existing infrastructure and the capability of the utility to provide service in the buffer zones around the city. Black Hills has invested in

infrastructure upgrades to this region of Sedgwick County to secure the necessary supply, pressure, and asset proximity necessary to provide safe, reliable, and affordable gas service to this rapidly growing area. Black Hills already supplies natural gas to the City of Cheney and maintains a service agreement with the City of Garden Plain, therefore has the existing infrastructure and capabilities to service customers west of the City of Goddard into Black Hills' existing certification rights within 27S03W as well.

9. The Order also requires that specific metes and bounds descriptions delimitating territory should be considered³. When paired with Staff's observation that a lack of definitive boundaries creates undesirable seam issues, the existing boundary between the two utilities along South Maple Street (which runs East to West and separates Sections 19 through 24 from Sections 25 through 30 in 27S02W) should be upheld. Adjusting the certification territory to metes and bounds within the Sections, instead of maintaining the existing definitive boundary along Section lines, will create safety and reliability concerns due to future seams issues as this area's population increases. Enforcing Black Hills' certificated territory maintains the existing North to South boundary via South Maple Steet and, with Black Hills acquisition of the Development, prioritizes the safety of the community through clearly defined utility territories for emergency and leak responses.

³ Order Opening General Investigation and Setting Comment Deadlines dated October 22, 2024, p. 4.

WHEREFORE, Black Hills requests that the Commission issue an Order requiring KGS to abandon its service of the Development and permit service to the Development by Black Hills, pending appropriate compensation from Black Hills to KGS for assets installed to service the Development. Black Hills also requests that the Commission reaffirm Black Hills' current certification rights within 27S02W and 27S03W as they are delineated in Attachment A. Lastly, Black Hills' requests that the Commission Order KGS to refrain from operating within Black Hills' solely certificated areas without first obtaining permission from the Commission.

By: *Douglas J. Law*
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Attorney for Black Hills/Kansas Gas
Utility Company, LLC, d/b/a Black Hills Energy

STATE OF NEBRASKA,)
)
LANCASTER COUNTY) ss.

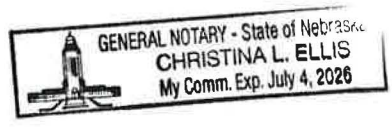
Douglas J. Law, of lawful age, being first duly sworn upon oath, deposes and says that he is attorney of the within named applicant, that he has read the above and foregoing application, and the statements contained therein are true.

Douglas J. Law
Douglas J. Law

SUBSCRIBED AND SWORN to before me this 23rd day of December 2024.

Christina L. Ellis
Notary Public

Appointment/Commission Expires:



CERTIFICATE OF SERVICE

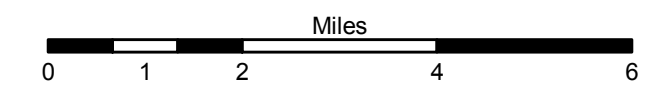
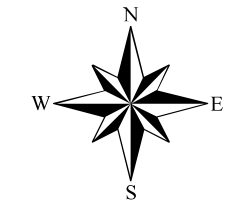
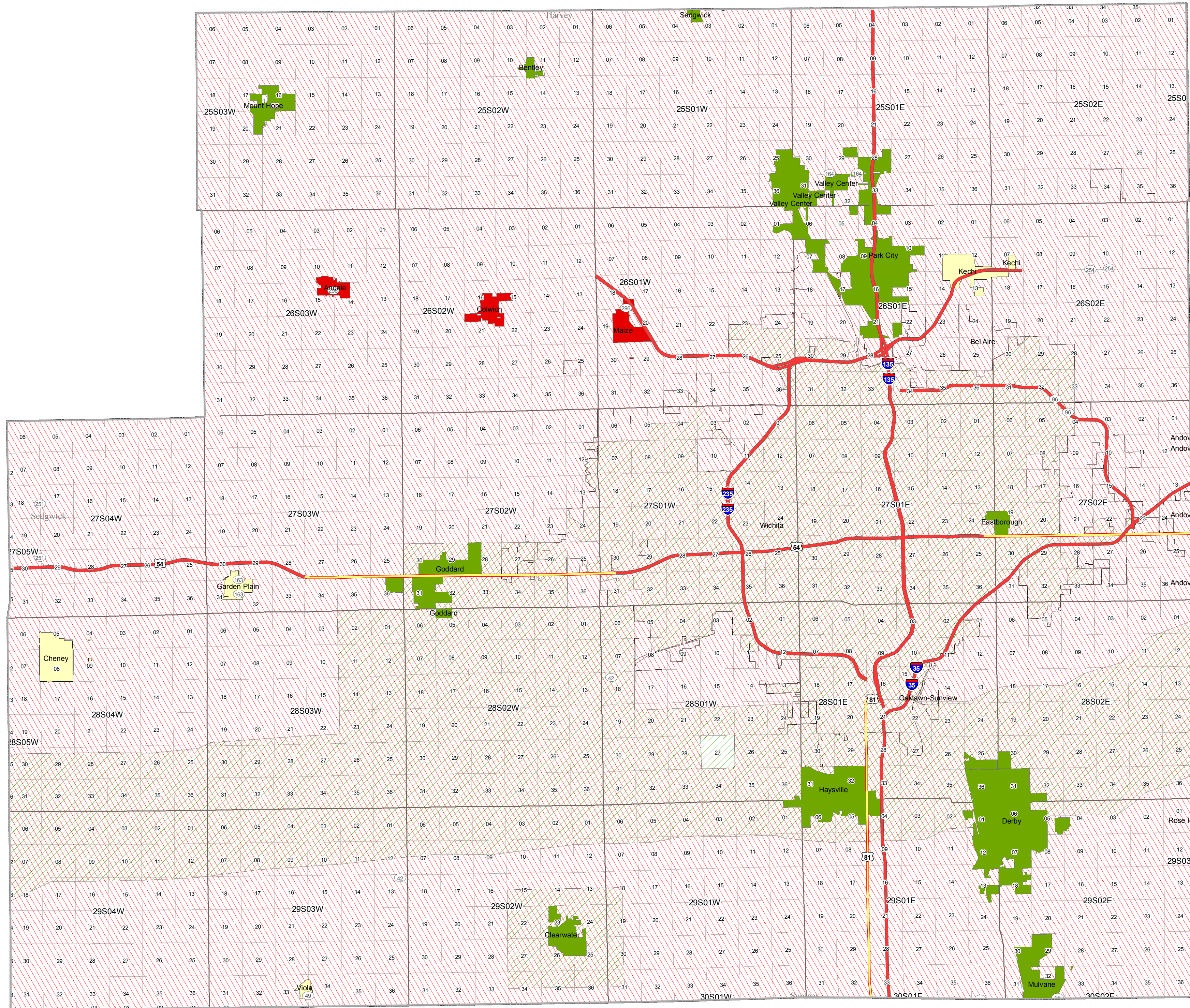
25-GIMG-114-GIG

I, the undersigned certify that a true and correct copy of the foregoing was served via electronic service this 23rd day of December, 2024 to the following:

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/s/ Douglas J. Law
Douglas L. Law

Gas Utility Service
SEDGWICK COUNTY
 In Kansas



Gas Provider for City

- Black Hills Energy
- KGS
- MUN

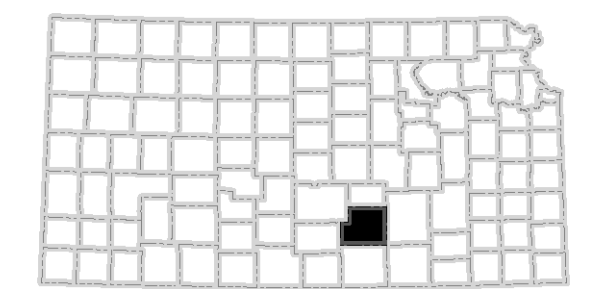
Gas Certified Areas

- BLACK HILLS ENERGY
- KANSAS GAS SERVICE
- MUNICIPAL OR OTHER SYSTEM

Major Roads

Road Classification

- Limited Access
- Highways



The information provided is updated to best of KCC knowledge. KCC makes no guarantees or warranties as to the completeness or accuracy of the data represented on this map. Call 1-800-DIG-SAFE (344-7233) before you dig.

ATTACHMENT B

