

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

Before Commissioners:     Mark Sievers, Chairman  
                              Ward Loyd  
                              Thomas E. Wright

In the Matter of the Application of Black     )                     Docket No. 12-BHCG-055-TAR  
Hills/Kansas Gas Utility Company, LLC,     )  
d/b/a Black Hills Energy, for Approval of the )  
Commission for Gas System Reliability     )  
Surcharge per K.S.A. 66-2201 through 66-  
2204

**ORDER GRANTING STAFF'S AMENDED UNOPPOSED MOTION FOR  
PROCEDURAL SCHEDULE, APPOINTING PREHEARING OFFICER, AND  
GRANTING CURB INTERVENTION**

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The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings:

***Background***

1.     On July 15, 2011, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) filed an application with the Kansas Corporation Commission for approval of a Gas System Reliability Surcharge per K.S.A. 66-2201 through 66-2204.

***Procedural Schedule***

2. On September 9, 2011, Staff filed an amended unopposed motion for a procedural schedule. In its amended motion, Staff advised that Staff, Black Hills, and CURB had reached agreement on a proposed 120-day procedural schedule. The Commission notes Staff's Memo will be due September 13, 2011, by operation of K.S.A. 2010 Supp. 66-2204(b)(2).

3. The Commission has reviewed the procedural schedule set forth in Staff's unopposed motion and finds it reasonable. The Commission grants the motion and adopts the following schedule as proposed by Staff, with the change that the Prehearing Conference will be held in the Third Floor Hearing Room:

<b><u>DATE</u></b>	<b><u>ACTION</u></b>
July 15, 2011	Application Filed
September 13, 2011	Staff's Memo Due (pursuant to K.S.A.2010 Supp. 66-2204(b)(2))
September 26, 2011	Black Hills and CURB Response to Staff's Memo
October 4, 2011	Reply Comments by Staff to Black Hills and between Black Hills and CURB ( <i>no new issues</i> )
October 7, 2011	Settlement Agreement w/ Testimony due if necessary/ Motions cutoff/ List of Contested Issues due
October 13, 2011	Prehearing Conference if needed – 10 a.m. - Third Floor Hearing Room
October 19, 2011	Hearing or Oral Argument if needed - 9 a.m. – First Floor Hearing Room
November 14, 2011	Order is due (120 <sup>th</sup> day is November 12 <sup>th</sup> – the 14 <sup>th</sup> is the next business day)

***Prehearing Conference and Evidentiary Hearing; Designated Agency Attorney***

4. The Commission sets a Prehearing Conference for Thursday, October 13, 2011, beginning at 10:00 a.m. and concluding by 12:00 p.m., in the Third Floor Hearing Room, (or such other room as may be designated if necessary) of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. During this Prehearing Conference, parties may

address any outstanding prehearing motions, discuss the procedure to be used during the evidentiary hearing, and consider any other matters that will promote the orderly and prompt conduct of this proceeding, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b); K.A.R. 82-1-222. Any party who fails to attend or participate in the hearing or in any other stage of this proceeding may be held in default under the KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520. At the prehearing conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding or disposition of the matter as provided by the KAPA. K.S.A. 77-516(c)(7). Parties may appear by telephone if necessary. The prehearing conference may be cancelled if not necessary.

5. An evidentiary hearing or oral argument before the Commission is scheduled for October 19, 2011, beginning at 9:00 a.m. in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. Any party who fails to attend or participate in the hearing or in any other stage of this proceeding may be held in default under KAPA. K.S.A. 2010 Supp. 77-518(c)(8); K.S.A. 2010 Supp. 77-520. This hearing may be cancelled if not necessary.

6. The attorney designated to appear on behalf of the agency is Judy Jewsome, telephone number 785-271-3181, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. K.S.A. 2010 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

***Appointment of Prehearing Officer***

7. Although the Commission will conduct any evidentiary hearing that may be necessary in this matter, the Commission designates a prehearing officer to conduct any prehearing conferences and to address any matters that are appropriately considered in a prehearing conference or addressed by the prehearing officer, including all items listed in the

Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b) and such other matters that will promote the orderly and prompt conduct of this proceeding and any hearing. Among other things, the Prehearing Office may order and alter any briefing or comment schedule, issue procedural and scheduling orders, issue orders regarding motions to intervene, and take administrative notice. The Commission designates Charles Reimer, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3361, email address c.reimer@kcc.ks.gov, to act as Prehearing Officer in this proceeding. K.S.A. 2010 Supp. 77-514; K.S.A. 77-516; K.S.A. 2010 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

***Electronic Service***

8. The Commission has been advised that the parties have agreed to use electronic service of all testimony, briefs, other pleadings and orders, without requiring provision of follow-up hard copies as required by K.A.R. 82-1-216(a)(6). The Commission approves use of electronic service. Confidential papers will be served either electronically if confidentiality can be retained or by some other method such as providing information on a compact disc. Testimony, briefs, and other pleadings must be served electronically by **3:00 p.m.** on the date due, without requiring service among the parties of a follow-up hard copy, but the original and at least seven paper copies of testimony, briefs and other pleadings must still be filed in the Commission's docket room by close of business on the date of the deadline. K.A.R.82-1-215(a). Any electronic service of Commission Orders without follow-up hard copies will specifically state in the electronic message serving the Order that the electronic message constitutes service of the attached Commission Order and that a hard copy will not follow to make clear paper copies will not also be provided. Electronic service of testimony, briefs and other pleadings shall

include service on the Prehearing Officer at c.reimer@kcc.ks.gov. All parties seeking to intervene shall provide an email address for service of orders, discovery, briefs, and other pleadings filed by the parties.

**CURB's Petition to Intervene**

9. On July 27, 2011, the Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene in this matter. In support of its Petition, CURB states that it has been given the discretion to intervene and represent the interests of Kansas residential and small commercial ratepayers in any utility proceeding before the Commission under K.S.A. 66-1223 *et seq.* CURB seeks to intervene to represent those interests in this docket and states the rates paid and service received by those customers will or may be affected by any Commission order or activity in this proceeding, that representation of CURB's interests in this proceeding by existing parties may be inadequate, and that the ratepayers whose interests CURB represents will or may be bound by any Commission order or activity in this proceeding and will or may be adversely affected thereby.

10. The Commission has broad discretion to grant a petition for intervention if it is in the interests of justice, if the intervention will not impair the orderly and prompt conduct of the proceedings, and if the party has stated facts demonstrating its legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding. K.S.A. 2010 Supp. 77-521(a); K.A.R. 82-1-225. At any time during a proceeding, the Commission may impose limitations on an intervener's participation. This can include limiting an intervener's participation to designated issues in which the intervener has a particular interest and its use of discovery, cross-examination, and other procedures. The Commission also may require two or

more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings. K.S.A. 2010 Supp. 77-521(c)(1) – (3).

11. The Commission finds CURB has met the requirements for intervention and grants CURB's Petition for Intervention, subject to any further order that the Commission might issue.

12. CURB will be added to the mailing list. Service of pleadings, communication, and correspondence should be delivered to counsel of record for CURB, as follows:

David Springe #15619  
Niki Christopher #19311  
C. Steven Rarrick #13127  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
(785) 271-3116 (fax)

In addition to counsel of record listed above, service of electronic pleadings, communications, and correspondence should also be delivered to:

Shonda Smith, Office Manager, CURB  
Email: sd.smith@curb.kansas.gov  
Address as noted above

Della Smith, Administrative Specialist, CURB  
Email: d.smith@curb.kansas.gov  
Address as noted above

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The unopposed procedural schedule proposed by Staff is adopted, as set forth above. The parties have agreed to use electronic service as discussed above and the Commission approves the agreement.

B. If necessary, an evidentiary hearing, with the Commission presiding, will be held on October 19, 2011, beginning at 9:00 a.m. in the Commission's First Floor Hearing Room, 1500 S.W. Arrowhead Road, Topeka, Kansas, as set forth above.

C. Charles Reimer is designated to serve as Prehearing Officer, as stated above. If necessary, a Prehearing Conference, with the Prehearing Officer presiding, will be held on October 13, 2011, at 10:00 a.m., in the Commission's Third Floor Hearing Room, 1500 S.W. Arrowhead Road, Topeka, Kansas, as discussed above.

D. CURB's Petition to Intervene is granted, as discussed above.

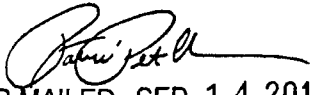
E. This Order will be served by electronic service without follow-up hard copy, as agreed to by the parties. The parties have fifteen days, plus three days if service is by mail, from the date the order is served in which to petition the Commission, for reconsideration of any issues decided herein. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(l).

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

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chmn; Loyd, Com.; Wright, Com.

Dated: SEP 14 2011

  
ORDER MAILED SEP 14 2011  
ELECTRONIC  
Patrice Petersen-Klein  
Executive Director

crr

**CERTIFICATE OF SERVICE**

SEP 14 2011

12-BHCG-055-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Granting Staff's Amended Unopposed Motion for Procedural Schedule, Appointing Prehearing Officer, and Granting CURB Intervention was served by electronic mail this 14th day of September, 2011, to the following parties who have waived receipt of follow-up hard copies:

JAMES G. FLAHERTY, ATTORNEY  
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CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD ROAD  
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n.christopher@curb.kansas.gov  
\*\*\*Hand Delivered\*\*\*

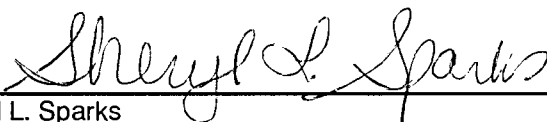
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\*\*\*Hand Delivered\*\*\*

  
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Sheryl L. Sparks  
Administrative Specialist

ORDER MAILED SEP 14 2011  
ELECTRONIC