

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

MAY 04 2012

In the Matter of the Application of Black 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 )

by  
State Corporation Commission  
of Kansas

Docket No. 12-BHCG-055-TAR

**MOTION TO EXTEND THE GAS SYSTEM RELIABILITY  
SURCHARGE AUTHORITY AS PROVIDED FOR IN K.S.A. 66-2203(d)**

COMES NOW Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy ("Black Hills" or "Company"), and pursuant to K.S.A. 66-2203(d), requests the Commission extend the 60-month deadlines for GSRS proceedings under K.S.A. 66-2203(b) and K.S.A. 66-2203(c) by twelve (12) months. In support of its Application, Black Hills states as follows:

1. Black Hills is a limited liability company with its principal place of business in Kansas at 110 E. 9<sup>th</sup> Street, Lawrence, Kansas 66044. Black Hills is duly authorized to transact business in the State of Kansas, holds appropriate certificates from this Commission to transact business as a natural gas public utility and is now and has been engaged in the purchase, transmission, sale and distribution of natural gas in the State of Kansas in accordance with the laws of said state and the rules and regulations of this Commission.

2. Black Hills serves approximately 108,500 customers in 57 communities and in 35 surrounding counties in Kansas. Operation centers are located in the major cities and towns served by Black Hills which include Lawrence, Wichita, Garden City, Dodge City, Liberal, and Goodland.

3. In 2006, Senate Bill 414, the Gas Safety and Reliability Act, was passed into law. Under this law, a utility "may file a petition and proposed rate schedules with the commission to establish or change GSRS rate schedules that will allow for the adjustment of the natural gas public utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements." Each year a utility is required to relocate and replace certain segments of its system.

The proposed GSRS tariff included in this Application will allow the utility to recover these expenses between rate cases through a surcharge.

4. K.S.A. 66-2202 defines "eligible infrastructure system replacement" as:

...natural gas public utility plant projects that: (1) Do not increase revenues by directly connecting the infrastructure replacement to new customers; (2) are in service and used and required to be used; and (3) were not included in the natural gas public utility's rate base in its most recent general rate case.

5. The inclusion criteria for the safety-related projects, according to K.S.A. 66-2202, are as follows: "(1) Mains, valves, service lines, regulator stations, vaults and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities; and (2) Main relining projects, service line insertion projects, joint encapsulation projects and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements."

6. The inclusion criteria for the road relocation projects, according to K.S.A. 66-2202, are as follows: "Facility relocations required due to construction or improvement of a highway, road, street, public right of way or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain provided that the costs related to such projects have not been reimbursed to the natural gas utility."

7. Only projects meeting the two criteria previously mentioned have been previously submitted to the Commission for consideration by Black Hills for recovery under its GSRS tariff.

8. Black Hills has previously received approval from the Commission to recover costs for GSRS approved projects included in Docket Nos. 08-AQLG-852-TAR ("852 Docket"), 09-BHCG-886-TAR ("886 Docket"), 10-BHCG-786-TAR ("786 Docket") and 12-BHCG-055-TAR ("055 Docket").

9. K.S.A. 66-2203(b) provides that the Commission shall not approve a GSRS for any

public utility that has not had a general rate proceeding decided or dismissed by issuance of a Commission Order within the past 60 months, unless the natural gas public utility has filed for or is the subject of a new general rate proceeding. K.S.A. 66-2203(c) provides the Commission shall not allow a natural gas public utility to collect a GSRS for a period exceeding 60 months unless the natural gas utility has filed or is the subject of a new general rate proceeding. Pursuant to K.S.A. 66-2203(d), enacted during the 2011 legislative session pursuant to SB 224, the 60 month time frame set forth in K.S.A. 66-2203(b) and K.S.A. 66-2203(c) may be extended by the Commission for a period up to twelve months as the Commission determines is reasonable or necessary. See, Docket No. 12-KGSG-138-TAR, Order Addressing Unopposed Motion to Extend Filing Deadline and Unopposed Motion for Procedural Schedule, dated October 19, 2011. With this Motion, Black Hills requests that the Commission extend the 60-month deadlines under K.S.A. 66-2203(b) and K.S.A. 66-2203(c) by twelve months.

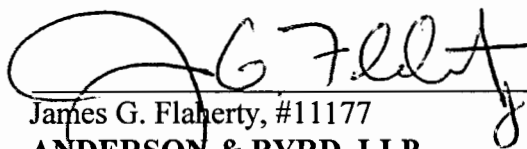
10. Black Hills's most recent general rate proceeding was in Docket No. 07-AQLG-431-RTS ("431 Docket"). The Commission's final Order in that docket was issued on May 16, 2007. The five year time frame for a Commission Order to be issued pursuant to K.S.A. 66-2203(b) is May 16, 2012. With Black Hills's next GSRS filing not being made until after May 16, 2012, it is necessary for Black Hills to request the Commission to extend the 60-month deadline under K.S.A. 66-2203(b) by twelve months beyond May 16, 2012.

11. Black Hills first began collecting a GSRS in the 852 Docket on August 1, 2008. The five year time frame for Black Hills to be allowed to collect a GSRS without having to file a rate case is July 31, 2013. With Black Hills next GSRS filing not being made until later this year (2012), it is likely necessary for Black Hills to request the Commission to extend the 60-month deadline under K.S.A. 66-2203(c) by twelve months beyond July 31, 2013.

12. It is reasonable for the Commission to grant the Motion requesting the 12-month

extension. Black Hills has made a significant investment in projects for which recovery will be sought in the upcoming GSRS Application. These investments were made to comply with safety requirements and for road relocation projects as a result of governmental improvements to roads and highways. One of the fundamental goals of Senate bill 414 passed in 2006 was to ensure timely recovery by utilities of these necessary investments, benefitting the general public. The upcoming GSRS Application filing will be made 60 months after rates from Black Hills' last rate case went into effect and the new GSRS rates under the upcoming filing will likely be in existence beyond the 60-month period set forth in K.S.A. 66-2203(c). As such, approval of this Motion will further the legislature's goal to provide timely recovery for investments to promote the general public good and safety. Black Hills has discussed its motion for extension with Staff and CURB and both have indicated they are not opposed to the 12-month extensions.

WHEREFORE, for the reasons set forth herein Black Hills requests the Commission issue an Order extending the 60-month deadlines set forth in K.S.A. 66-2203(b) and K.S.A. 66-2203(c) by twelve months, and allowing Black Hills to make its next GSRS Application filing with the Commission.



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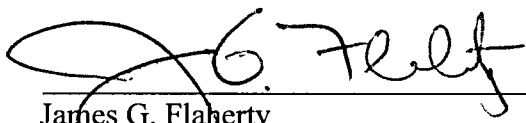
James G. Flaherty, #11177  
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(785) 242-1279, facsimile  
Attorneys for Black Hills/Kansas Gas Utility Company,  
LLC, d/b/a Black Hills Energy

**VERIFICATION**

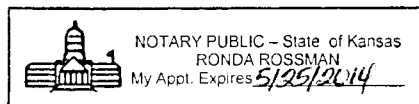
STATE OF KANSAS            )  
  )ss:  
COUNTY OF FRANKLIN    )

James G. Flaherty, of lawful age, being first duly sworn on oath, states:

That he is the attorney for Black Hills/Kansas Gas Utility Company, LLC d/b/a Black Hills Energy, that he has read the above and foregoing Motion to Extend Gas System Reliability Surcharge Authority as Provided for in K.S.A. 66-2203(d), knows the contents thereof; and that the statements contained therein are true.

  
\_\_\_\_\_  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of May, 2012.



  
\_\_\_\_\_  
Notary Public

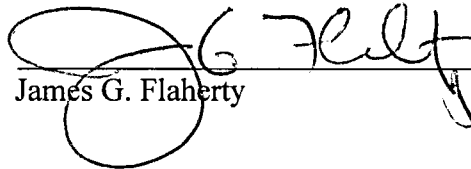
Appointment/Commission Expires:

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was mailed, postage prepaid, this 4<sup>th</sup> day of May, 2012, addressed to:

Judy Jenkins  
Litigation Counsel  
Kansas Corporation Commission  
1500 S. W. Arrowhead Road  
Topeka, Kansas 66604

Niki Christopher  
Citizens' Utility Ratepayer Board  
1500 S.W. Arrowhead Road  
Topeka, Kansas 66604



James G. Flaherty

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**ANDERSON & BYRD**

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ROBERT A. ANDERSON  
(1920-1994)  
RICHARD C. BYRD  
(1920-2008)

May 4, 2012

***Sent by Facsimile***  
***Original Mailed 5/4/12***

Ms. Patrice Petersen-Klein  
Executive Director  
Kansas Corporation Commission  
1500 S. W. Arrowhead Road  
Topeka, Kansas 66604-4027

Received  
on  
**MAY 04 2012**  
by  
State Corporation Commission  
of Kansas

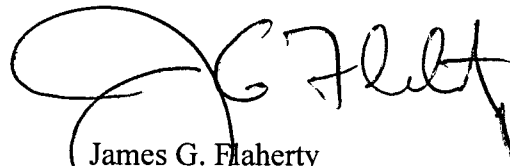
Re: Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy  
Docket No. 12-BHCG-055-TAR

Dear Ms. Petersen-Klein:

Please file the enclosed Motion to Extend the Gas System Reliability Surcharge Authority as Provided for in K.S.A. 66-2203(d) on behalf of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, in the above captioned matter. I would appreciate receiving a file stamped copy of this cover letter as well as a file stamped copy of the Motion for my files. An envelope is included for your convenience.

Thank you for your assistance. If you have any questions, please call.

Sincerely,

  
James G. Flaherty  
[jflaherty@andersonbyrd.com](mailto:jflaherty@andersonbyrd.com)

JGF:rr  
Enclosure