

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

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

In the Matter of the Application of Black)
Hills/Kansas Gas Utility Company, LLC,)
d/b/a/ Black Hills Energy, for Authority to) Docket No. 19-BHCG-149-ACQ
Operate as a Natural Gas Public Utility in an)
Area Heretofore Privately-Owned by Green)
Plains Cattle Company, LLC.)

ORDER GRANTING APPLICATION

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

I. Background

1. Black Hills/Kansas Gas Utility Company, LLC, d/b/a/ Black Hills Energy (“BHE”) requests Commission approval to purchase one mile of distribution natural gas pipeline, which serves eleven customers, for the price of \$1.00; BHE also requests Commission approval to record the purchase price of the piping at the BHE current distribution system average per customer embedded cost for meters, services, and mains on an original cost basis.¹ This accounting treatment would allow BHE to record the purchase price as \$19,932 for ratemaking purposes.² The piping system is in BHE certified territory.³

¹ Application of BHE (Oct. 18, 2018) (“Application”).

² Response to Staff’s Data Request 2. The average embedded cost per customer for the year ended 2017 is \$1,813.

³ Staff’s *Report and Recommendation (Report)*, at 1 (Feb. 12, 2019).

2. The one mile section of pipeline is currently owned by Green Plains Cattle Company (“Green Plains”).⁴ The pipeline serves Green Plains’s commercial needs and supplies utility service to the homes of its employees.⁵

3. The distribution piping in question was constructed by Green Plains’s predecessor in 1999.⁶ Green Plains is not currently considered a public utility because it provides gas service for its own use or as part of a rental agreement.⁷

4. The pipeline system is considered a “master meter system” for the purposes of pipeline safety regulation.⁸

5. BHE did not own or build the pipeline; but, a BHE predecessor company inspected the system’s construction for the owner.⁹ Although not owned by BHE, the company or its predecessor has provided contract maintenance services to maintain the pipeline and ensure compliance with pipeline safety regulations.¹⁰

6. On February 13, 2019, Commission Staff (“Staff”) submitted a Report and Recommendation dated February 12, 2019, recommending the Commission grant BHE’s request.

II. Legal Standards and Discussion

7. The state corporation commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities.¹¹ The commission is given full power, authority and jurisdiction to supervise and control the natural gas public utilities, as defined in K.S.A. 66-1,200,

⁴ Staff’s *Report and Recommendation (Report)*, at 1 (Feb. 12, 2019).

⁵ *Id.*

⁶ *Id.* at 2.

⁷ *Id.*

⁸ 49 CFR Part 191.3 as adopted by K.A.R. 82-11-3; see *Report* at 2.

⁹ Response to Staff Data Request 1; see *Report* at 2.

¹⁰ *Report* at 2.

¹¹ K.S.A. 74-623(a).

doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹²

8. The commission has the power to require all natural gas public utilities governed to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such natural gas public utilities.¹³

9. Staff believes it is reasonable to assume the condition of the facilities will meet BHE operating standards and should present no risk to the BHE ratepayers.¹⁴ The subject pipeline is located in BHE certificated retail territory, and BHE has been involved in some fashion with the construction and operation of the pipeline since it was built.¹⁵ The Commission's pipeline safety staff has routinely inspected the Green Plains facilities for compliance with pipeline safety regulations and has no record of violations or concerns regarding the operation of the pipeline.¹⁶

10. The proposed accounting treatment is an acceptable method to account for the purchased assets.¹⁷ Under the proposed accounting treatment, BHE will book approximately \$20,000 in its rate base.¹⁸ Based on an estimated construction cost of \$200,000 to replace the subject line¹⁹, Staff considers the booked value at 10% of the new construction cost to be an economic value to the ratebase.²⁰

11. The acquisition serves the public interest of Kansas by continuing to provide natural gas service to rural Kansas customers; and, because the value that will be booked for ratemaking

¹² K.S.A. 66-1,201.

¹³ See K.S.A. 66-1,202.

¹⁴ *Report*, at 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Table LMH-2, Notice of Filing Staff Memorandum, Dec. 19, 2019, Docket No. 15-GIMG-343-GIG; see *Report* at 2.

²⁰ *Report*, at 2.

purposes will be the average embedded cost per customer, BHE's other customers will not experience a rate increase or subsidize the rate recovery of this purchase.²¹

12. For the above reasons, Staff recommended approval of BHE's application. The Commission has reviewed Staff's Report and Recommendation submitted in this matter and finds the analysis and recommendations contained therein to be reasonable; accordingly, the Commission adopts Staff's recommendations as its own.

THEREFORE, THE COMMISSION ORDERS:

- A. BHE's Application 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).²²
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Feist Albrecht, Commissioner; Emler, Commissioner

Dated: 02/21/2019 _____



Lynn M. Retz
Secretary to the Commission

CRM

²¹ *Id.*

²² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Leo Haynos, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: February 12, 2019

SUBJECT: Docket No. 19-BHCG-149-ACQ
In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, for Authority to Operate as a Natural Gas Public Utility in an Area Heretofore Privately-Owned by Green Plains Cattle Company, LLC.

EXECUTIVE SUMMARY:

In this Docket, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (BHE or Applicant) is requesting Commission approval to purchase for \$1.00, one mile of distribution natural gas pipeline serving eleven customers. BHE also requests Commission approval to record the purchase price of the piping at the BHE current distribution system average per customer embedded cost for meters, services and mains on an original cost basis. This accounting treatment would allow BHE to record the purchase price as \$19,932¹ for ratemaking purposes. The piping system in question is located in BHE certificated territory.

The one mile section of pipeline is currently owned by Green Plains Cattle Company (Green Plains). It is Staff's understanding the pipelines serves Green Plains' commercial needs as well as supplies utility service to the homes of Green Plains' employees.

Staff recommends approval of the proposed acquisition and accounting treatment. Staff notes the proposed booked value is well below the cost of new construction for a mile of pipeline to serve the prospective customers. Because BHE has the infrastructure and personnel in place to provide service to these customers, the proposed acquisition will also provide a permanent solution to ensuring the eleven customers receive appropriate utility service including emergency response.

¹ Response to Staff Data Request 2. The average embedded cost per customer for the year ended 2017 is \$1,813.

BACKGROUND:

The distribution piping in question was constructed by a Green Plains' predecessor company in 1999. Because Green Plains currently provides gas service for its own use or as part of a rental agreement, it is not considered to be a public utility. The pipeline system is considered to be a "master meter system" for purposes of pipeline safety regulation.² Although BHE did not own or build the pipeline, a BHE predecessor company inspected the construction of the system for the owner.³ Although not owned by BHE, the company or its predecessor has provided contract maintenance services to maintain the pipeline and to ensure compliance with pipeline safety regulations.

ANALYSIS:

The subject pipeline is located in BHE certificated retail territory, and BHE has been involved in some fashion with the construction and operation of the pipeline since it was built. The Commission's pipeline safety staff has routinely inspected the Green Plains' facilities for compliance with pipeline safety regulations and has no record of violations or concerns regarding the operation of the pipeline. Therefore, Staff believes it is reasonable to assume the condition of the facilities will meet BHE operating standards and should present no risk to the BHE ratepayers.

Staff considers the proposed accounting treatment of the purchased assets to be an acceptable method to account for the assets. Under the proposed accounting scenario, BHE will book approximately \$20,000 in its rate base. Based on an estimated construction cost of \$200,000 to replace the subject line⁴, Staff considers the booked value at 10% of the new construction cost to be an economic value to the ratebase. Further, Staff notes the acquisition serves the public interest of Kansas by continuing to provide natural gas service to rural Kansas customers. Additionally, because the value that will be booked for ratemaking purposes will be the average embedded cost per customer, Black Hills' other customers will not experience a rate increase or subsidize the rate recovery of this purchase.

RECOMMENDATION:

Staff recommends approval of the subject Application.

² 49 CFR Part 191.3 as adopted by K.A.R. 82-11-3.

³ Response to Staff Data Request 1.

⁴ See Table LMH-2, Notice of Filing Staff Memorandum, December 19, 2019, Docket 15-GIMG-343-GIG.

CERTIFICATE OF SERVICE

19-BHCG-149-ACQ

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 02/22/2019.

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* Denotes those receiving the Confidential version