

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

Before Commissioners:      Dwight D. Keen, Chair  
                                 Susan K. Duffy  
                                 Andrew J. French

In the Matter of the Application of Black      )  
Hills/Kansas Gas Utility Company, LLC d/b/a      )  
Black Hills Energy, for Approval of the      ) Docket No. 22-BHCG-503-TAR  
Commission for a Gas System Reliability      )  
Surcharge per K.S.A. 66-2201 through 66-      )  
2204.      )

**ORDER ADOPTING STAFF'S  
REPORT AND RECOMMENDATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) on the Application of Black Hills/Kansas Gas Utility, Company, LLC d/b/a Black Hills Energy (Black Hills) for approval of its Gas System Reliability Surcharge (GSRS). After review of the pleadings, the Commission makes the following findings and conclusions.

**I.      BACKGROUND**

1.      On May 9, 2022, Black Hills filed its Application requesting an Order approving its Application for a new tariff sheet with updated surcharge rates pursuant to K.S.A. 66-2201 through 66-2204.<sup>1</sup> Black Hills' requested tariff is designed to provide for an incremental revenue increase of \$1,373,596 based on capital costs totaling \$14,178,801.<sup>2</sup> The GSRS tariff schedule is designed to allow for the adjustment of Black Hills' rates and charges to provide for the recovery of costs for eligible infrastructure system replacements.

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<sup>1</sup> Black Hills Energy Application for a Gas System Reliability Surcharge, p. 1 (May 9, 2022).

<sup>2</sup> None of the projects included in the GSRS filing were included in Black Hills' last rate filing. Direct Testimony of Ann L. Stichler, p. 8 (May 9, 2022).

2. On May 19, 2022, the Commission granted intervention to the Citizens' Utility Ratepayer Board (CURB).<sup>3</sup>

3. On July 7, 2022, after examining Black Hills' Application,<sup>4</sup> Staff filed its Report and Recommendation. Staff adjusted the amount requested and recommended the Commission approve \$14,176,883 of requested capital expenditures through the GSRS.<sup>5</sup> Further, Staff recommends an incremental GSRS revenue requirement of \$1,373,409, a \$184 decrease from Black Hills' requested amount of \$1,373,596.<sup>6</sup>

4. K.S.A. 66-2204(e)(1) provides a monthly charge resulting from a GSRS may not increase a residential customer's bill more than \$0.80. The agreed upon GSRS results in a monthly increase of \$0.74 monthly or \$8.88 annually for residential customers.<sup>7</sup>

## **II. LEGAL STANDARDS AND DISCUSSION**

5. The Gas Safety and Reliability Policy Act, K.S.A. 66-2201 *et seq.*, allows natural gas public utilities to file a petition to recover costs for certain infrastructure projects through a monthly customer surcharge if the infrastructure investments complies with certain requirements.

6. The Act requires Staff to examine information of the natural gas public utility's petition to confirm the underlying costs are in accordance with the provisions of K.S.A. 66-2202 through K.S.A. 66-2204 and to confirm proper calculation of the proposed charge. If the Commission finds the petition complies with the requirements, the Commission shall enter an order authorizing the natural gas public utility to impose a GSRS that is sufficient to recover appropriate revenue.<sup>8</sup>

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<sup>3</sup> Order Granting CURB's Petition to Intervene, Protective Order and Discovery Order (May 19, 2022).

<sup>4</sup> Pursuant to K.S.A. 66-2204(b)(2).

<sup>5</sup> Staff's Report & Recommendation, p. 4 (July 1, 2022) (Staff's Report).

<sup>6</sup> *Id.*

<sup>7</sup> Staff's Report, Exh. 2.

<sup>8</sup> K.S.A. 66-2204(b)(4).

7. To make a determination of compliance with the statute, Staff reviews project descriptions in the petition to ensure the replaced facilities do not increase revenue by directly connecting the infrastructure system to new customers.<sup>9</sup> The projects considered for GSRS recovery must satisfy at least one of the five criteria included in the definition of a Natural Gas Utility Plant Project defined in K.S.A. 66-2202(f):

- (f) Natural gas utility plant projects consist of the following:
  - (1) Mains, meters, valves, service lines, regulator stations, vaults and other pipeline system components installed to replace, upgrade or modernize obsolete facilities, including, but not limited to, installation to comply with state or federal safety requirements replacing existing facilities;
  - (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 including, but not limited to, projects undertaken to comply with state or federal safety requirements;
  - (3) facility relocations required due to construction or improvement of a highway, road, street, public 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 public utility;
  - (4) system security costs including allocated corporate costs incurred by a natural gas public utility; and
  - (5) investments made in accordance with the utility's safety and risk management programs.

8. Additionally, K.S.A. 66-2203(a) places financial conditions on the natural gas public utility:

- The Commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues below the lesser of \$1,000,000 or ½% of the natural gas public utility's base revenue level approved by the commission in the natural gas public utility's most recent general rate proceeding; and

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<sup>9</sup> K.S.A. 66-2202(d)(1).

- The commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues exceeding 20% of the natural gas public utility's base revenue level approved by the commission in the natural gas public utility's most recent general rate proceeding.

9. Finally, K.S.A. 66-2203(b) states: "The commission shall not approve a GSRS for any natural gas 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."

10. If the GSRS Application complies with statutory requirements in K.S.A. 66-2202 through K.S.A. 66-2204 the Commission is required to approve the Application.

11. Staff notes the statute was modified in 2018 and expanded the scope of projects allowed to be included in the Act.<sup>10</sup> The 2018 change also increased the cap on the monthly surcharge to customers from \$.40 to \$.80 per residential customer over the base rates in effect for the initial filing of a GSRS.<sup>11</sup>

12. Black Hills' Application recommends an additional proposed capital expenditures of \$14,178,801 be included in the proposed surcharge for the recovery of costs associated with the completion of 19 projects associated with road relocation or public improvements, 129 identifiable safety related projects, and 28 blanket work orders.<sup>12</sup> The projects requested for GSRS cost recovery can be categorized in two groups: projects related to government mandated relocation projects; and projects defined as safety related system improvements.<sup>13</sup> Black Hills provided a list of projects it seeks to receive recovery on through GSRS in Exhibit ALS-1.<sup>14</sup>

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<sup>10</sup> Staff's Report, at 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.*

<sup>14</sup> See Application, Exh. ALS-1.

13. Staff performed an audit of Black Hills' Application to verify the surcharge was properly calculated and based solely on the projects included in the Application.<sup>15</sup> Although several minor errors existed in project descriptions, communication between Staff and Black Hills corrected the errors. With those corrections, Staff concluded that all of the street relocation projects; all of the safety related projects, and all of the blanket work orders for smaller projects be eligible for GSRS recovery.<sup>16</sup> Therefore, the projects contained in Black Hills' GSRS application meet the eligibility requirements of K.S.A. 66-2201 *et seq.*, and should be included in the proposed surcharge.

14. Staff also performed an accounting audit, which found the cost of a specific project overstated by \$1,918. As a result, Staff recommends approval of 14,176,883 in capital expenditures instead of \$14,178,801. This correction also results in Staff recommending an incremental GSRS revenue requirement of \$1,373,409 instead of the requested \$1,373,596—a \$187 decrease.

15. The revised incremental GSRS revenue requirement of \$1,373,409 will increase residential customer bills by \$0.74 monthly and \$8.88 annually.

16. CURB had the opportunity to review the Report and Recommendation and has no objection to Staff's recommendations.<sup>17</sup>

17. Black Hills had the opportunity to review the Report and Recommendation and has no objection to Staff's recommendations.<sup>18</sup>

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<sup>15</sup> See Staff's Report, at 3–4.

<sup>16</sup> *Id.*

<sup>17</sup> A copy of CURB's e-mail on July 14, 2022, notifying Staff that it had the opportunity to review Staff's Report and has no objection to Staff's recommendations is on file with Staff Litigation Counsel.

<sup>18</sup> A copy of Black Hills' e-mail on July 6, 2022, notifying Staff that it had the opportunity to review Staff's Report and has no objection to Staff's recommendations is on file with Staff Litigation Counsel.



### III. FINDINGS AND CONCLUSIONS

18. Upon review of the record as a whole, the Commission finds Staff's recommendations to be reasonable and adopts the same. The Commission finds that Black Hills' application complies with the relevant statutory requirements. Black Hills' GSRS, with Staff's recommendations, is approved, resulting in an incremental GSRS revenue requirement of \$1,373,409. Furthermore, the surcharge shall be collected via the monthly charges listed on Staff Exhibit 2. Black Hills is directed to file an updated tariff reflecting such rates.

19. In accordance with K.S.A. 66-2204(b)(4), the Commission finds there is sufficient evidence to approve the proposed GSRS subject to Staff's recommendation as described in paragraph 3, above. The Commission finds the agreed upon GSRS is just and reasonable.

#### **IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) Black Hills' Gas System Reliability Surcharge is approved as adjusted by Staff's recommendation to include an additional \$14,176,883 of the proposed capital expenditures in the surcharge and the rates set forth in Exhibit 1 to Staff's Report and Recommendation.

(B) Black Hills' Gas System Reliability Surcharge shall be collected via the monthly charges listed in Staff Exhibit 2, which are attached to Staff's July 1, 2022 Report and Recommendation.

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

(D) 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).<sup>19</sup>

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<sup>19</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 07/28/2022



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Lynn M. Retz  
Executive Director

JRJ

## CERTIFICATE OF SERVICE

22-BHCG-503-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
electronic service on 07/28/2022.

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/S/ DeeAnn Shupe  
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