

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

In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, for Approval of Revisions to Tariff Language on Other Transportation Service Charges.)
)
) Docket No. 24-BHCG-457-TAR
)
)

NOTICE OF FILING OF STAFF’S REPORT AND RECOMMENDATION

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) hereby submits its Report and Recommendation, dated June 21, 2024, regarding the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills). In its Application, Black Hills requested approval of changes to its Other Transportation Charges (OTC) tariff.

Staff concludes that Black Hills’ proposed OTC tariff changes are just and reasonable, as they protect Transportation customers from extraordinary penalties while still acting as an incentive to keep natural gas orders in balance. Furthermore, Sales customers benefit from natural gas pricing to reduce the likelihood of gas underage penalties. Staff also believes the proposed changes to be in the public interest.

WHEREFORE, Staff submits it’s Report and Recommendation for Commission review and consideration and for such other relief as the Commission deems just and reasonable.

Respectfully Submitted,

/s/ Ahsan Latif

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Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Douglas Hall, Senior Rate Analyst
Justin Grady, Deputy Director of Utilities
Jeff McClanahan, Director of Utilities

DATE: June 21, 2024

SUBJECT: Docket No. 24-BHCG-457-TAR: In the Matter of the Application for Tariff Revision

EXECUTIVE SUMMARY

On December 20, 2023, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (“Black Hills”) filed an Application for Tariff Revision, requesting approval for changes to its Other Transportation Charges (“OTC”) tariff. Specifically, Black Hills is requesting changes to Index No. 37, part 5, Monthly Cash Out Charges. This portion of the tariff describes the Cash Out Price calculations for any Transportation Customer that is out of balance at the end of each calendar month, which is the charge to a Transportation customer when there is a variance between the allocated Receipts and allocated Deliveries of natural gas. Black Hills states the reason for the Cash Out Price changes is “an effort to control potentially exorbitant penalties from driving peak demand prices higher, while also continuing to encourage Transportation Customers to remain in balance.”¹

In its Application, Black Hills refers to Docket No. 23-KGSG-719-TAR (“23-719 Docket”), wherein Kansas Gas Service, a Division of ONE Gas, Inc. (“Kansas Gas Service”) requested approval for changes to five of its tariffs, including a revision to “Cash Out Price calculation and application”.² A Joint Motion for Approval of the Settlement Agreement (“Settlement Agreement”) was filed on September 22, 2023. One element of the Settlement Agreement revised the Cash Out Price calculation to “be (1) the highest daily average price for the month calculated as a simple average of the four indexes in the case of Over-Deliveries, or (2) the lowest daily

¹ Docket No. 24-BHCG-457-TAR (“24-457 Docket”), Application for Tariff Revision, Dec. 20, 2023, p. 4.

² 23-719 Docket, Application for Approval of Revisions to Certain Tariffs Controlling Transportation Service, Mar. 31, 2023, p. 4.

average price for the month calculated as a simple average [of] the four indexes in the case of Under-Deliveries.”³

Based on the evidence and reasoning set forth in support of the Cash Out Price calculation revisions in the 23-719 Docket Settlement Agreement, a desire for consistency in the treatment of tariff revisions, and because Black Hills’ requested revisions to its tariff still encourage Transportation Customers to remain in balance, Staff recommends that Black Hills’ Application for Tariff Revision be approved.

BACKGROUND

On February 15, 2021, the Commission filed an Emergency Order Docket No. 21-GIMX-303-GIG (“21-303 Docket”) in response to Winter Storm Uri, which saw “wholesale natural gas price increase[s] from 10 to 100 times higher than normal”.⁴ As a result, many utilities incurred extraordinary costs as a result of maintaining service through the severely inclement conditions. To minimize the financial effects of Winter Storm Uri, the Commission ordered that company-specific investigative dockets be opened. Among these investigative dockets was Docket No. 21-KGSG-332-GIG (“21-332 Docket”) for KGS.

One (of many) conclusions of the 21-332 Docket investigation was an order by the Commission that KGS “schedule a workshop for the purpose of exploring revised tariff provisions consistent with lessons learned during Winter Storm Uri.”⁵ After holding workshops, KGS filed an Application in the 23-719 Docket requesting revisions to its tariffs, a docket to which Black Hills refers in its Application in the instant Docket. KGS’ Application requested approval for changes to five of its tariffs, including a revision to “Cash Out Price calculation and application”.⁶ A Joint Motion for Approval of the Settlement Agreement (“Settlement Agreement”) was filed on September 22, 2023. One element of the Settlement Agreement revised the Cash Out Price calculation to “be (1) the highest daily average price for the month calculated as a simple average of the four indexes in the case of Over-Deliveries, or (2) the lowest daily average price for the month calculated as a simple average [of] the four indexes in the case of Under-Deliveries.”⁷ In support of this change, Staff testimony supporting the Settlement Agreement states that the revised “Cash Out provisions will incentivize transportation customers to balance their natural gas deliveries and consumption for the month, which will substantially reduce the likelihood that Sales customers end up subsidizing Transportation customer gas costs.”⁸

On December 20, 2023, Black Hills filed an Application for Tariff Revision, requesting approval for changes to its OTC tariff modeled on the KGS tariff revisions in the 21-332 Docket. Specifically, Black Hills are requesting changes to Index No. 37, part 5, Monthly Cash Out Charges. This portion of the tariff describes the Cash Out Price calculations for any Transportation

³ 23-719 Docket, Joint Motion for Approval of the Settlement Agreement, Sep. 22, 2023, p. 18.

⁴ 21-303 Docket, Emergency Order, Feb. 15, 2021, p. 1.

⁵ 21-332 Docket, Order Approving Unanimous Settlement Agreement on Waiver of the Penalties Under Kansas Gas Service’s Tariff, Mar. 3, 2022, p. 31.

⁶ 23-719 Docket, Application for Approval of Revisions to Certain Tariffs Controlling Transportation Service, Mar. 31, 2023, p. 4.

⁷ 23-719 Docket, Joint Motion for Approval of the Settlement Agreement, Sep. 22, 2023, p. 18.

⁸ 23-719 Docket, Testimony in Support of Unanimous Settlement Agreement by Justin Grady on Behalf of KCC, Oct. 27, 2023, p. 18.

Customer that is out of balance at the end of each calendar month, which is the charge to a Transportation customer when there is a variance between the allocated Receipts and allocated Deliveries of natural gas. The reason for the Cash Out Price changes “in an effort to control potentially exorbitant penalties from driving peak demand prices higher, while also continuing to encourage Transportation Customers to remain in balance.”⁹

ANALYSIS

Staff evaluates proposed tariffs to determine whether they are in compliance with applicable Kansas Statutes, Commission precedent, and relevant court rulings. In this case, Staff is guided by K.S.A. 66-1,202, which states that every natural gas public utility must “establish just and reasonable rates, charges and exactions”. Further, tariffs should serve the public interest, that is to say, “[e]very unjust or unreasonably discriminatory or unduly preferential rule, regulation, classification, rate, charge or exaction is prohibited, unlawful and void.”¹⁰

Black Hills’ Proposed Tariff Changes are Just and Reasonable

Presently, Black Hills’ OTC tariff provides for Transportation customers that are out of balance at the end of the month to be charged a penalty, or Cash Out Price, based on the variance. The price index used to calculate the Cash Out Price depends on the location of the customer, as that determines what pipeline from which the Transportation customer effectively takes service. Specifically, for customers downstream of Northern Natural Gas Pipeline (“NNG”), the Cash Out Price for an underage is “the highest Platts Daily Price Survey Midpoint Gas Price for Northern, demarc or Northern, Ventura for the month the Imbalance was incurred”, while the Cash Out Price for an overage is “the lowest Platts Daily Price Survey Midpoint Gas Price for Northern, demarc or Northern, Ventura for the month the Imbalance was incurred.” For those customers that take service from All Other Pipelines (“AOP”), that is, customers that are not downstream of and take service from NNG, WTG Hugoton Pipeline, or ONEOK Field Services Company, LLC, the Cash Out Price for an underage is “the highest Platts Daily Price Survey Midpoint Gas Price off Panhandle, TX/Okla, Southern Star, NGPL Midcontinent, and CIG Rockies for the month the Imbalance was incurred.” In the case of an overage, the Cash Out Price would be lowest price.

The purpose of the Cash Out Price is to incentivize Transportation customers to accurately assess their gas needs, schedule appropriate quantities, and conserve gas when conditions necessitate. However, there are instances where penalties can be extraordinary due to extreme price fluctuations. For example, during Winter Storm Uri of February 2021, the NNG midpoint price reached \$231.670 per dekatherm (Dth). Prices through some other pipelines was even higher, such as Southern Star Central Gas Pipeline reaching a maximum midpoint price of \$622.785 per Dth. While subsequent extreme weather events have not seen prices spike as high as during Winter Storm Uri, they can still rise by an order of magnitude or more for the duration of the inclement weather. Fear of being charged an extraordinary Cash Out Price can lead to irrational or panicked buying behavior, where Transportation customers will purchase more gas than necessary to ensure sufficient supply during an unusual weather event. In the aggregate, such behavior can lead to a strain on supply, particular at times when demand for gas is the highest.

⁹ Docket No. 24-BHCG-457-TAR (“24-457 Docket”), Application for Tariff Revision, Dec. 20, 2023, p. 4.

¹⁰ K.S.A. 66-1,202.

The requested tariff revision would still serve as an incentive to Transportation customers to maintain balance with respect to natural gas receipts and deliveries. It seems natural that customers would prefer to pay less for a commodity than to pay more for the same quantity. However, the Cash Out Price would not be subject to extremes as a result of unpredictable price fluctuations. Black Hills provides an example in its Application, noting that in December 2022, AOP customers would be charged \$44.610 per MMBtu under the existing tariff, while the proposed changes would see that drop to the average highest price of \$23.010 per MMBtu. Staff believes that using the average highest or lowest price for an underage or overage, respectively, still properly acts a price signal to customers. At the same time, the lessened looming threat of extraordinary charges would reduce the tendency to purchase more natural gas than is required.

Black Hills has communicated to Staff that the Cash Out Prices, both existing and proposed, are at least as punitive as any charges or penalties to Black Hills from its upstream providers. This ensures that Black Hills is not itself exposed to punitive charges for not having collected enough from its out of balance customers. A slight reduction in the Cash Out Price is then more reasonable, as penalties are generally not intended to be a source of revenue, whether intentional or not.

Black Hills' Proposed Tariff Changes Are in the Public Interest

The public interest is served when utilities provide reasonably efficient and sufficient service at just and reasonable rates. Black Hills' proposed changes to its OTC tariff reduces the exposure of Transportation customers to extraordinary penalties as a result of extreme pricing events, while still ensuring that any penalties charged by upstream providers are collected from the customers responsible for incurring them.

The revised OTC tariff still sends a proper price signal to Transportation customers, incentivizing them to stay in balance. Purchasing the amount of natural gas that will be consumed rather than purchasing excess to avoid the prospect of high penalties is reflected in market prices for natural gas and reduces system costs to the utility. In this way, Sales customers also benefit from the proposed OTC tariff changes. Therefore, Staff concludes that Black Hills' proposed tariff changes are in the public interest.

Similar Cash Out Price Mechanisms Are Already In Use

As Black Hills notes in its Application, KGS filed an Application in the 23-719 Docket requesting several tariff revisions. Among those revisions was a change to the Cash Out Price Mechanism similar to the revision Black Hills is proposing in the instant docket. While the approval of that tariff revision is not precedential and therefore not grounds for recommending approval in and of itself, Staff notes that it was supportive of these tariff changes in the 23-719 Docket, for the same reasons as stated in this Report above. While each natural gas utility may face unique circumstances in terms of the customers or regions served, Staff believes that the underlying logic and philosophy with respect to setting tariffs should be applied in the same manner, hence, in the absence of any major obstacles, approval of the proposed tariff changes seems the best course of action.

RECOMMENDATION

Staff concludes that Black Hills' proposed OTC tariff changes are just and reasonable, as they protect Transportation customers from extraordinary penalties while still acting as an incentive to keep natural gas orders in balance. Furthermore, Sales customers benefit from natural gas pricing and system costs when Transportation customers are not incentivized to purchase excess gas to reduce the likelihood of gas underage penalties. Staff also believes the proposed changes to be in the public interest. Therefore, Staff recommends the Commission approve Black Hills' proposed OTC tariff revisions.

CERTIFICATE OF SERVICE

24-BHCG-457-TAR

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing of Staff's Report and Recommendation was served via electronic service this 21st day of June, 2024, to the following:

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CERTIFICATE OF SERVICE

24-BHCG-457-TAR

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