

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

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

In the Matter of the Application of Black )  
Hills/Kansas Gas Utility Company, LLC, d/b/a )  
Black Hills Energy Seeking Commission ) Docket No. 19-BHCG-233-TAR  
Approval for Ad Valorem Tax Surcharge Rider )  
Tariff Adjustments for 2019 )

**ORDER APPROVING AD VALOREM TAX SURCHARGE RIDER**

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

**I. BACKGROUND**

1. On December 17, 2018, Black Hills Energy (Black Hills) submitted a request for approval of its updated Ad Valorem Tax Surcharge Rider for the year 2019.<sup>1</sup>

2. On January 4, 2019, after examining Black Hills' request, Staff submitted its Report and Recommendation, dated January 3, 2019, which recommends approval of Black Hills' 2019 Ad Valorem Tax Surcharge Rider adjustments.<sup>2</sup> Staff's Report and Recommendation is attached hereto and hereby adopted by the Commission and incorporated into this Order via reference.

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<sup>1</sup> Application of Black Hills Energy Seeking Commission Approval of Ad Valorem Tax Surcharge Rider Adjustments for 2019 (Dec. 17, 2018).

<sup>2</sup> Staff's Report and Recommendation (Jan. 3, 2019).

## II. DISCUSSION

3. Black Hills is requesting a refund in the amount of \$710,838, which consists of the difference between Black Hills' 2018 total Ad Valorem tax assessments and the amount included in base rates from Black Hills' most recent base rate case as well as a true-up provision comparing the amount of Ad Valorem Tax Surcharge revenue collected versus that intended to be collected during the year 2018.<sup>3</sup>

4. Black Hills provided Staff with photocopies of the 2018 Ad Valorem tax statements.<sup>4</sup> Staff has reviewed the tax statements and agreed with the total amount of 2018 Ad Valorem tax expense claimed by Black Hills in its Application.<sup>5</sup> Additionally, Black Hills provided Staff with supporting documentation regarding the collection of the 2018 Ad Valorem Tax Surcharge revenues and Corporate Ad Valorem tax expense allocated to Kansas. Staff reviewed the information and found it to be accurate.<sup>6</sup> Staff has reviewed the tax statements and agreed with the total amount of 2018 Ad Valorem tax expense claimed by Black Hills in its Application.<sup>7</sup> Moreover, Staff noted Black Hills' proposed Ad Valorem Tax Surcharge Rider would increase residential customer bills by \$0.29 per month, or \$3.49 annually.<sup>8</sup>

5. Ultimately, Staff recommends the approval of Black Hill's Ad Valorem refund of \$710,838, with the following conditions:

- a. Staff will ensure that the annual true-up of amounts collected versus the actual amount of increase or reduction in Ad Valorem taxes will be reflected in the subsequent year Ad Valorem Tax Surcharge calculation;

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<sup>3</sup> Black Hills Application, pg. 1.

<sup>4</sup> Staff's Report and Recommendation, pg. 2.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

- b. K.S.A. 66-117(f) requires the annual true-up of this surcharge once established.

Accordingly, Black Hills shall file its Ad Valorem Tax Surcharge Rider annual true-up in December of each calendar year.<sup>9</sup>

### **III. FINDINGS AND CONCLUSION**

6. K.S.A. 66-117(f) provides, in pertinent part:

“Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility’s bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes.”

7. In Docket No. 08-AQLG-834-TAR, the Commission approved Black Hill’s predecessor’s Ad Valorem Tax Surcharge Rider.<sup>10</sup> Black Hills submitted its present request in December 2018. Accordingly, the Commission finds and concludes Black Hills has properly submitted its annual report to the Commission regarding changes in expense charged for Ad Valorem taxes as required by K.S.A. 66-117(f) and the Commission’s April 7, 2008, Order in Docket No. 08-AQLG-834-TAR.

8. K.S.A. 66-117(f) also provides the legal standard by which the Commission should review tariffs such as Black Hills’ ad valorem tax surcharge:

“Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce an existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of filing.”

9. Upon review of Staff’s Report and Recommendation and the record as a whole, the Commission finds and concludes the surcharge as calculated by Black Hills and reviewed by Staff substantially collect Ad Valorem tax expense charged on the books of Black Hills.

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<sup>9</sup> Id. pg. 3.

<sup>10</sup> Black Hills Application, pg. 1; *See also* Order, Docket No. 08-AQLG-834-TAR, pg. 3-4 (Apr. 7, 2008).

Accordingly, the Commission finds and concludes substantial competent evidence exists to approve Black Hills' request in the instant proceeding, as conditioned in Staff's Report and Recommendation.

10. Accordingly, the Commission finds and concludes Black Hills' request to update its Ad Valorem Tax Surcharge Rider should be approved. Black Hills shall be permitted to refund its sales and transportation customers \$710,838. Black Hills shall be permitted to refund over collected Ad Valorem taxes to its sales and transportation customers calculated at \$0.00475 per Therm, subject to the conditions contained within Staff's Report and Recommendation and as detailed in paragraph 5 of this Order. The Commission finds and concludes a refund in the amount of \$0.00475 per Therm to Black Hills' sales and transportation customers will result in Black Hills substantially collected Ad Valorem tax expense charged on its books, and will therefore result in just and reasonable rates. Additionally, the Commission concludes that Black Hills' surcharge will be applied to bills in a reasonable manner.

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

- A. Black Hills' request to refund its Ad Valorem tax expense is approved.
- B. Black Hills shall be permitted to refund over collected Ad Valorem taxes to its sales and transportation customers calculated at \$0.00475 per Therm, subject to the conditions set forth in Staff's Report and Recommendation and as detailed in paragraph 5 of this Order.
- C. 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>11</sup>
- D. 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.

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<sup>11</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.**

Albrecht, Chairman, Emler, Commissioner, Keen, Commissioner

Dated: 01/10/2019



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Lynn M. Retz  
Secretary to the Commission

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# STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.  
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

## REPORT AND RECOMMENDATION UTILITIES DIVISION

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

**FROM:** Tim Rehagen, Senior Auditor  
Justin Grady, Chief of Accounting and Financial Analysis  
Jeff McClanahan, Director of Utilities

**DATE:** January 3, 2019

**SUBJECT:** Docket No. 19-BHCG-233-TAR – In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy Seeking Commission Approval for Ad Valorem Tax Surcharge Rider Tariff Adjustments for 2019.

### **EXECUTIVE SUMMARY:**

Staff recommends approval of Black Hills Energy's (Black Hills) 2019 Ad Valorem Tax Surcharge Rider in the amount of a refund of \$710,838, which is an increase of \$736,343 from last year's surcharge rider amount.<sup>1</sup> This surcharge would be in effect during the period of February 2019 through January 2020 and is a reduction from the Ad Valorem tax expense that was included in base rates from Black Hills' most recent rate case. Assuming that residential customers in Kansas use 59.1 therms per month, Black Hills' proposed Ad Valorem Tax Surcharge Rider would increase their bill by \$0.29 per month, or \$3.49 annually, compared to last year's surcharge rider.

### **BACKGROUND:**

On December 17, 2018, Black Hills filed its 2019 Ad Valorem Tax Surcharge request with the Kansas Corporation Commission (Commission). The surcharge request was filed in accordance with K.S.A. 66-117(f), which provides for a utility to collect increases (or refund decreases) in its Ad Valorem taxes above (below) amounts currently embedded in base rates. The statute also

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<sup>1</sup> Black Hills' surcharge rider that was approved last year (effective for the period of February 2018 through January 2019) amounted to a refund of \$1,447,181. Therefore, while the refund amount has decreased, the recoverable surcharge amount has increased by \$736,343.

requires a Commission Order within 30 days of the filing date which, in this Docket, is by January 16, 2019. Black Hills is requesting a refund of \$710,838 in its filing consisting of:

1. The difference between its 2018 total Ad Valorem tax assessments and the amount included in base rates from its most recent base rate case.
2. A true-up provision comparing the amount of Ad Valorem Tax Surcharge revenue collected versus that intended to be collected during the year 2018.<sup>2</sup>

The amount of Ad Valorem tax expense included in Black Hills' base rates was identified in a Stipulated Settlement Agreement.<sup>3</sup> Black Hills received Commission approval to implement its first Ad Valorem Tax Surcharge on April 4, 2008.

#### **ANALYSIS:**

The Commission derives its authority to review Ad Valorem tariffs from K.S.A. 66-117(f), which states in part:

Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes... Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the [C]ommission shall approve such tariffs within 30 days of the filing.

Black Hills' Ad Valorem Tax Surcharge was filed in accordance with K.S.A. 66-117(f), which provides for a utility to collect or refund differences in its Ad Valorem taxes above or below the amount currently embedded in base rates.

#### **Staff Analysis**

Black Hills provided Staff with photocopies of the 2018 Ad Valorem tax statements in support of the amount of Ad Valorem tax claimed in its Application. Staff has reviewed the tax statements and is in agreement with the total amount of 2018 Ad Valorem tax expense claimed by Black Hills in its Application. In addition, Black Hills provided Staff with supporting documentation regarding the collection of the 2018 Ad Valorem Tax Surcharge revenues and the Corporate Ad Valorem tax expense allocated to Kansas. The information provided was reviewed and found to be accurate.

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<sup>2</sup> The filing contains estimated recoveries for the month of December 2018, which will be trued up in next year's Ad Valorem Surcharge filing. Additionally, the filing contains the true-up of estimated December 2017 recoveries (from last year's Ad Valorem Surcharge filing) to actual December 2017 recoveries. See Attachment 1 of the Application.

<sup>3</sup> See Paragraph 14 of the Stipulated Settlement Agreement included in the Order Approving Stipulated Settlement Agreement in Docket No. 14-BHCG-502-RTS.

**RECOMMENDATION:**

Staff recommends the Commission approve Black Hills' Ad Valorem refund of \$710,838 with the following conditions:

1. Staff will ensure that the annual true-up of amounts collected versus the actual amount of increase or reduction in Ad Valorem taxes will be reflected in the subsequent year Ad Valorem Tax Surcharge calculation.
2. K.S.A. 66-117(f) requires the annual true-up of this surcharge once established. Accordingly, Black Hills shall file its Ad Valorem Tax Surcharge Rider annual true-up in December of each calendar year.



## **CERTIFICATE OF SERVICE**

19-BHCG-233-TAR

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 01/11/2019.

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