

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Complaint of Kansas Gas Service,)
a Division of ONE Gas, Inc., Against Westar Energy,) Docket No. 19-WSEE-061-COM
Inc. Regarding Westar's Practice of Offering Payments)
to Developers in Exchange for the Developers)
Designing All Electric Subdivisions.

PETITION OF BLACK HILLS ENERGY
TO INTERVENE AND COMMENTS

COMES NOW Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy ("Black Hills") and petitions the State Corporation Commission of the State of Kansas ("Commission") for an order permitting it to intervene in the above-captioned proceeding under K.S.A. 77-521 and K.A.R. 82-1-225. In support of its petition, Black Hills states and alleges as follows:

1. Black Hills is a corporation organized and existing under the laws of the state of Kansas and is duly authorized to transact business in the state of Kansas. Black Hills' principal office is located at 601 North Iowa St, Lawrence, Kansas. Black Hills is a public utility engaged in the local distribution of natural gas in the state of Kansas.

2. On August 7, 2018, 2018, Kansas Gas Service, a Division of ONE Gas, Inc. ("Kansas Gas Service) filed its complaint ("Complaint") against Westar Energy, Inc. ("Westar). The Complaint alleges that Westar has an unauthorized practice of offering payments to developers that agree to design their residential subdivision to contain only all electric housing. The Complaint further alleges that Westar's practice is anti-competitive and actively damages rather than promotes the public interest.¹

¹ Kansas Gas Service Complaint at 2.

3. Black Hills has certificates of convenience and necessity to provide natural gas service in areas of Kansas where Westar provides electric service. Black Hills submits that its interest cannot be represented adequately by any other party, that its participation would be in the public interest, and that it should be granted full rights of intervention.

4. As stated, Black Hills provides natural gas service in areas of Kansas where Westar provides electric service. Westar's practice of providing rebates to developers as incentives to construct all electric subdivisions impacts the ability of Black Hills to compete with Westar in these areas to provide energy service to customers and is contrary to the public interest.

5. Granting the requested intervention will not prejudice any party to this proceeding, nor will it impair the interest of justice and orderly and prompt conduct of the proceedings.

6. In addition to the signatory counsel, communications and correspondence in regard to this application should be addressed to:

Robert J. Amdor
Director Regulatory
1102 East 1st Street
Papillion, NE 68046
(402) 221-2227, telephone
(401) 221-2686, facsimile

COMMENTS

7. As shown on Exhibit A to the Complaint – “2016 total Electric Subdivision Heat Pump Program,” in order to receive the rebate, the developer must agree to the following: “All buildings within the subdivision to be built Total Electric with a Full Heat pump split system as the primary heating source. All buildings to be served directly by Westar Energy.” Black Hills’ agrees with the Complaint that this agreement results in much more than an incentive to include heat pumps in homes, but effectively, requires the developer to not allow natural gas service in the development.

8. Westar's rebate program is not included in its tariff. There is no limit to the amount of the rebate that could be provided to ensure that natural gas is not allowed in the subdivisions. These rebates will surely be recovered by Westar, most likely, from customers that did not receive the rebate. Recovery of the rebate costs from individual customers, some of whom did not benefit via the developer, would be unduly discriminatory and unfair.

9. On its face, the agreement is anti-competitive and not in the public interest. Individual customers residing in subdivisions that do not allow natural gas are denied access to natural gas. Because subdivisions cannot be served totally by natural gas, Black Hills and other natural gas companies cannot compete against the rebate program. Thus, the practice impacts competition between natural gas and electricity. In denying access to natural gas and eliminating competition, Westar's rebate program is unreasonable, unfair, unjust, and unjustly discriminatory and unduly preferential. As such the Commission should disallow the practice pursuant to K.S.A. 66-101f.

10. Black Hills agrees with the statements and allegations made in the Complaint by Kansas Gas Service. Westar's practice should not be allowed to continue.

WHEREFORE, Black Hills requests that the Commission issue an order granting its Petition for Intervention in this docket and that the Commission grant the relief requested in the Complaint.

Respectfully submitted,



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VERIFICATION

STATE OF NEBRASKA, COUNTY OF SARPY

Dari R. Dornan, of lawful age, being first duly sworn on oath, states that she is the attorney for Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy; that she has read the foregoing Petition for Intervention and Comments, and the statements contained therein are true.

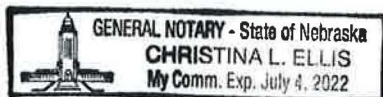


Dari R. Dornan

SUBSCRIBED AND SWORN to before me this 10th day of October, 2018



Notary Public



CERTIFICATE OF SERVICE
Docket No. 19-WSEE-061-COM

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 10th day of October, 2018, to the following:

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Dari Dornan