

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of Black)
Hills/Kansas Gas Utility Company, LLC,)
d/b/a Black Hills Energy, for a Certificate)
of Public Convenience and Authority to) Docket No. 18-BHCG-282-COC
Transact the Business of a Natural Gas)
Public Utility in Certain Portions of)
Morton County, Kansas.)

ORDER ISSUING CERTIFICATE OF CONVENIENCE AND AUTHORITY

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On January 4, 2018, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) filed an Application requesting a Certificate of Convenience and Authority (Certificate) to transact the business of a natural gas public utility in two sections of natural gas territory located in Morton County, Kansas. Black Hills is a natural gas public utility as defined in K.S.A. 2016 Supp. 66-104 and K.S.A. 66-1,200. Pursuant to K.S.A. 66-1,201, the Commission is given full power, authority and jurisdiction to supervise and control natural gas public utilities. A public hearing was neither requested nor held on Black Hills' Application.

2. Black Hills requests that it be certificated as a natural gas public utility for the purpose of providing natural gas service in the following described territory to wit:

All of Sections 20 and 21, Township 35 South, Range 42 West, Morton County, Kansas, as detailed on the map marked Exhibit A attached to the Application.

Black Hills states that the requested territory is not currently certificated to any other natural gas public utility and Black Hills is the certificated natural gas utility in the surrounding area. Black Hills is currently certificated to serve the City of Elkhart, Kansas in Morton County as follows:

All of Sections 16 and 17, S/2 of Section 8, and the S/2 of Section 9, Township 35 South, Range 42 West, Morton County, Kansas.

Black Hills further states that the City of Elkhart's boundaries have expanded southward since the initial Certificates were authorized and with the instant Application Black Hills requests Certificates to serve the City of Elkhart in all sections it currently occupies.¹

3. On January 19, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated January 9, 2018, recommending the Commission grant Black Hills' Application and issue the company a Certificate to transact the business of a natural gas public utility in the territory described in paragraph 2 above.

II. LEGAL STANDARD AND DISCUSSION

4. K.S.A. 2016 Supp. 66-131(a) provides in part that:

No person or entity...defined as a public utility by K.S.A. 66-104, and amendments thereto, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state...

5. Staff confirms that the legal description included in Black Hills' Application is accurately depicted on the map attached as Exhibit A to the Application and is not in conflict with the Commission's Certificate records. Concluding, Staff determines that the public convenience and necessity will be promoted by granting Black Hills'

¹ Application, page 1.

Application and issuing the company a Certificate of Convenience and Authority to transact the business of a natural gas public utility in the territory described in paragraph 2 above.²

III. FINDING AND CONCLUSION

6. The Commission adopts Staff's analysis and recommendation of January 9, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Black Hills' Application should be granted, and that public convenience and necessity will be promoted by issuing Black Hills the requested Certificate.

IT IS, THEREFORE, BY THE COMMISSION ORDERED AND CERTIFIED:

A. That the Application filed by Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy on January 4, 2018, is hereby granted and Black Hills is hereby issued a Certificate of Convenience and Authority to transact the business of a natural gas public utility in the territory described in paragraph 2 above.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served, in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

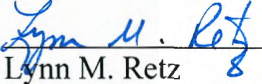
C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary.

² Report and Recommendation, page 2.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFICATED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: **JAN 25 2018**



Lynn M. Retz
Secretary to the Commission

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Order Mailed Date

JAN 26 2018

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

FROM: Jason Kerr, Electric Utility Engineering Technician
Leo Haynos, Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: January 9, 2018

SUBJECT: 18-BHCG-282-COC
In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a/ Black Hills Energy, for a Certificate of Public Convenience and Authority to Transact the Business of a Natural Gas Public Utility in Certain Portions of Morton County, Kansas.

EXECUTIVE SUMMARY

Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) request a Certificate for two Sections near the City of Elkhart (Elkhart), Morton County Kansas. The territory requested currently is not certificated to a natural gas public utility.

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction.

BACKGROUND:

On January 4, 2018, Black Hills filed the above captioned Application requesting a natural gas certificate for Sections 20 and 21, Township 35 South, Range 42 West in Morton County, Kansas.

Black Hills is requesting a certificate of convenience to serve customers located on the southern outskirts of the City of Elkhart. Black Hills, currently provides natural gas to the city of Elkhart in sections 16 and 17 and the South Half of Sections 8 and 9, T-35S, R-42W which are directly north of the requested area.

From Staff's review, there are currently no other natural gas suppliers certificated in this area.

The Commission has authority to grant a certificate of convenience and necessity to any public utility seeking to transact business in the State of Kansas.¹

The statutory standard of review in this matter is whether the public convenience will be promoted by the transaction of the proposed project and by permitting the Applicant to transact the business of a common carrier or public utility.

ANALYSIS:

Staff has reviewed Black Hill's Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff also confirmed the legal description is not in conflict with the Commission's Certificate records. The legal description is included as Attachment 1 to this Report and Recommendation.

The Commission action date is July 3, 2018.

RECOMMENDATION:

Staff recommends that the Commission grant these Applications and find that public convenience will be promoted by this transaction.

¹ K.S.A. 2016 Supp. 66-131.

ATTACHMENT 1

Legal Description of Requested Natural Gas Territory
by Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy
Docket No. 18-BHCG-282-COC

MORTON COUNTY, KANSAS

All of Sections 20 and 21, Township 35 South, Range 42 West

CERTIFICATE OF SERVICE

18-BHCG-282-COC

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 **JAN 25 2018**.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

JAN 26 2018