

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

Before Commissioners: Thomas E. Wright, Chairman
 Joseph F. Harkins

In the Matter of the Application of Black)
 Hills/Kansas Gas Utility Company, LLC, d/b/a)
 Black Hills Energy for Approval to Implement)
 Black Hills Energy’s Five-Year Energy)
 Efficiency Plan Consisting of Natural Gas)
 Energy Efficiency Programs to Improve)
 Building and Equipment Efficiency and to)
 Educate About Efficient Energy Usage, To)
 Provide for Program Cost Recovery through a)
 Rider Mechanism, Permit the Implementation)
 Of a Revenue Normalization Mechanism to)
 Replace the Weather Normalization)
 Adjustment, A Performance Incentive)
 Mechanism, And Appropriate Accounting)
 Authority to Defer Expenses and Revenues)
 Associated with the Filing.)

Docket No: 10-BHCG-639-TAR

**ORDER DESIGNATING PREHEARING OFFICER
 AND SETTING SCHEDULING CONFERENCE**

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The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and being fully advised of all matters of record, the Commission summarizes the arguments of the parties and finds and concludes as follows:

I. Introduction

1. On March 31, 2010, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills Energy or Applicant) filed an Application seeking approval of the

Commission to establish a portfolio of basic natural gas energy-efficiency programs. Application, March 31, 2010, ¶ 6 (Application, ¶ 6). Black Hills Energy noted that it is a natural gas public utility operating in the state of Kansas, with its principal place of business located at 110 East 9th Street, Lawrence, Kansas 66044. Application, ¶ 1. Black Hills Energy holds certificates of convenience and necessity issued by the Commission. Application, ¶ 1.

2. Black Hills Energy proposes an Energy Efficiency Cost Recovery (EECR) rider mechanism to recover the cost of its proposed energy-efficiency and conservation programs and a Revenue Normalization Mechanism (RNM) as the revenue decoupling mechanism to adjust revenues to match the expected weather-normalized revenues from Black Hills Energy's Commission-approved level of revenues. Application, ¶¶ 6-8. Black Hills Energy also proposes a performance incentive mechanism for savings associated with residential and low-income programs, and seeks accounting authority to permit it to recognize revenues on a monthly basis and to defer and recover program costs. Application, ¶¶ 9-10.

3. The Citizens' Utility Ratepayer Board (CURB) has filed a Petition to Intervene. The Prehearing Officer designated in this Order will address this and any additional petitions to intervene.

4. The Commission has jurisdiction over Empire's Application under K.S.A. 66-117 and K.A.R. 82-1-231. Applicant filed information required by K.A.R. 82-1-231. In this Order, the Commission sets a scheduling conference and designates a prehearing officer.

II. Scheduling Conference

5. Having reviewed the Application, the Commission finds that a prehearing officer should be designated and a scheduling conference set to allow parties to present arguments, if any, regarding issues and to develop a procedural schedule to recommend to the Commission.

The Commission recognizes that the 240-day deadline runs on Friday, November 26, 2010, which is a State holiday, and therefore, the Commission's Order must be filed on the next business day of Monday, November 29, 2010. During the Scheduling Conference, parties shall be prepared to discuss deadlines for filing of testimony and briefs and possible dates for an evidentiary hearing with the Commission presiding, as well as potential dates for a public hearing or hearings, should the Commission desire to hold a public hearing or hearings.

A. Designating Prehearing Officer

6. Although the Commission will conduct the evidentiary hearing in this docket, the Commission designates a prehearing officer to conduct any prehearing conferences that might be needed in this proceeding and to address any matters that are appropriately considered in a prehearing conference, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). These items include, for example, conversion of the proceeding to another type; exploration of settlement possibilities; preparation of stipulations; clarification of issues; rulings on identity and limitation of the number of witnesses; objections to proffers of evidence; determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form, and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person; order of presentation of evidence and cross-examination; rulings regarding issuance of subpoenas; discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Melissa Doeblin, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, telephone number 785-271-3186, email address m.doeblin@kcc.ks.gov, to act as Prehearing Officer in this proceeding. K.S.A. 2009 Supp. 77-

514; K.S.A. 77-516; K.S.A. 2009 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

B. Notice of Prehearing Scheduling Conference

7. Having concluded that a prehearing conference is needed to discuss scheduling, the Commission sets a Scheduling Conference for April 19, 2010, beginning at 9:00 a.m. and concluding by 10:30 a.m., in the Third Floor Hearing Room of the Commission's offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. This Scheduling Conference will focus on issues that relate to development of a procedural schedule for this docket. Parties should be prepared to discuss discovery procedures and any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. Any party who fails to attend or participate in the Prehearing Conference, hearing or other stage of this proceeding may be held in default under the KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520. At the prehearing conference, this proceeding, without further notice, may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by the KAPA. K.S.A. 77-516(c)(7).

III. Agency Attorneys of Record

8. The attorneys designated to appear on behalf of the agency in this proceeding are Terri Pemberton, telephone number 785-271-3119, email address t.pemberton@kcc.ks.gov; and Andrew Schulte, telephone number 785-271-3273, email address a.schulte@kcc.ks.gov, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. K.S.A. 2009 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission appoints Melissa Doeblin to act as Prehearing Officer and directs parties to attend the Scheduling Conference on April 19, 2010, beginning at 9:00 a.m. and concluding by 10:30 a.m., in the Third Floor Hearing Room of the Commission's offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as described above in paragraphs 6 and 7. Parties should be prepared to discuss deadlines for filing of testimony and briefs and possible dates for an evidentiary hearing with the Commission presiding, as well as potential dates for a public hearing or hearings, should the Commission desire to hold a public hearing or hearings.

B. This is a procedural order and constitutes nonfinal agency action. K.S.A. 77-607(b)(2). Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2009 Supp. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chairman; Harkins, Commissioner

Dated: **APR 07 2010** _____



Susan K. Duffy
Executive Director

ORDER MAILED APR 08 2010

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