

**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
)
)

CURB’S RESPONSE TO STAFF’S REPORT AND RECOMMENDATION

COMES NOW, the Citizens’ Utility Ratepayer Board (“CURB”) and submits its *Response to the Report and Recommendation* (“R&R”) filed by the Staff of the Kansas Corporation Commission (“Staff”) in the above-captioned docket on June 21, 2024.

1. 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 of changes to its Other Transportation Charges ("OTC") tariff. Specifically, Black Hills requested 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. The Cash Out Price 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

2. 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")

¹ Kansas Corporation Commission Staffs Report and Recommendation, June 21, 2024.

requested approval for changes to five of its tariffs, including a revision to "Cash Out Price calculation and application".² In that docket, 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."³ The Commission approved the Settlement Agreement, which included the revised Cash Out Price calculation, by Order issued on December 24, 2023.

3. In its R&R in this docket, Staff recommended that Black Hills' Application for Tariff Revision be approved. Staff's recommendation is based on the evidence and reasoning set forth in support of the Cash Out Price calculation revisions in the 23-719 Docket Settlement Agreement, Staff's desire for consistency in the treatment of tariff revisions, and because Staff perceives that Black Hills' requested revisions to its tariff still encourage Transportation Customers to remain in balance. CURB has reviewed Staff's R&R, and believes it to be concise and reasoned support for Commission approval of the Tariff Revision in this docket. In this response, CURB echoes many of the statements made by Staff.

4. CURB has also independently analyzed Black Hills' Application for Tariff Revision. CURB notes the Black Hills' current tariff monthly Cash-Out Price for Northern Natural Gas ("Northern") is determined by using the highest (underage) or lowest (overage) Platts Gas Daily price for Northern, Demark or Northern, Ventura for the month the imbalance was incurred.

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

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

Black Hills proposes changing this calculation to be the average of the highest or lowest Platts Gas Daily price for Northern, Demark and Northern, Ventura for the month the imbalance was incurred.⁴CURB notes that this methodology is consistent with the methodology approved by the Commission in the 23-719 Docket.

5. CURB also reviewed the KGS application and Commission Order in the 23-719 Docket to compare it to the Black Hills' Application. The Settlement Agreement in the 23-719 Docket created a new method for calculating how Transportation Customers were charged to be a simple average of the highest daily average price for the month calculated as a simple average of four natural gas indexes in the case of over deliveries or the lowest daily simple average of the same companies in the case of under deliveries. CURB supported the Settlement Agreement in the 23-719 Docket.

6. Based upon the review described above, CURB supports Staff's R&R. In these regards, CURB notes that it is incumbent upon Black Hills to maintain sufficient natural gas to serve its Sales Service customers and to maintain the system's operational integrity. To this end, each Transportation Service Customer is required to balance monthly nominations (customer volumes to be delivered to the Black Hills system) with deliveries (volumes delivered by Black Hills to the customer). Any difference between nominations and deliveries results in an imbalance which may significantly affect system operational integrity and associated costs. For example, when Transportation Service Customers put more gas onto Black Hills system than they use (an overage), Black Hills must incur fees to place the excess gas into storage. Conversely, when Transportation Service Customers use more gas than they supply to the system (underage), Black Hills must acquire additional volumes to keep the system in balance.

⁴ Black Hills Energy's Application for Tariff Revision, dated December 20, 2023, p. 4.

7. Ideally, Transportation Service Customers would precisely provide natural gas to Black Hills according to daily nominations, resulting in perfect balance between nominations and deliveries. However, nominations only represent estimates of use and consumption, so consistent perfect balancing is practically unachievable. Nonetheless, appropriate attention and work to balance nominations and deliveries are needed and reasonably expected. 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, so as to help keep the operational system in balance.

8. However, there are instances under the present tariff where penalties can be extraordinary due to extreme price fluctuations, which may operate against the public interest. In particular, Staff notes that the fear of being charged an extraordinary Cash Out Price can lead to irrational or panicked buying behavior, where Transportation Customers 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.⁵

9. In these regards, CURB acknowledges that the purpose of the proposed changes to Black Hills' tariff is to ameliorate extraordinary penalties associated with the Cash Out Price. CURB agrees that ameliorating extraordinarily harsh penalties, such as occurred in Winter Storm Uri and caused the Commission to investigate transportation tariffs, is in the public interest. However, it is important to residential customers that the Cash Out price continue to incentivize transportation customers to accurately assess their gas needs, schedule appropriate quantities, and conserve gas when conditions necessitate.⁶

⁵ Kansas Corporation Commission Staff's Report and Recommendation, p. 3 June 21, 2024.

⁶ Order Approving Unanimous Settlement Agreement in 23-KGSG-719-TAR, dated December 28, 2023, p. 4

10. Further, CURB believes that the use of a consistent definition among the different Gas Utilities regarding Cash Out Prices can be beneficial to all the parties. Consistency in matters pertaining to Cash Out Prices between utilities can help to ensure the use of consistent and coherent criteria during the regulatory review process. Further, such consistency can facilitate administrative efficiency.

11. Finally, CURB acknowledges that the change in the proposed manner in which Cash Out Prices will be determined will hopefully avoid extreme penalties, and CURB understands the philosophy that penalties should not be incommensurate with the potential harm caused. However, it is also important that tariffs are enforced according to their terms. A Cash Out provision that is not ever enforced will simply not serve as an incentive to Transportation Customers to maintain balance with respect to natural gas receipts and deliveries. Noting the support for the similar tariff provisions in the 23-719 Docket, CURB is hopeful that the revisions to the tariff provisions proposed in this docket achieves the balance that is needed to allow the Cash Out provisions to be fairly enforced in future events.

WHEREFORE, based upon its review, CURB respectfully notifies the parties that CURB supports the R&R filed by Staff in this matter.

Respectfully submitted,



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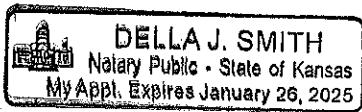
VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Todd E. Love, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.

Todd E. Love
Todd E. Love

SUBSCRIBED AND SWORN to before me this 28th day of June 2024.



Della J. Smith
Notary Public

My Commission expires: 01-26-2025.

CERTIFICATE OF SERVICE

24-BHCG-457-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 28th day of June, 2024, to the following:

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