

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

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

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 2018.)
)
) Docket No. 18-BHCG-249-TAR
)
)

ORDER APPROVING AD VALOREM TAX SURCHARGE RIDER UPDATE

The above-captioned 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 and conclusions:

I. BACKGROUND

1. On December 13, 2017, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) submitted a request for approval of its updated Ad Valorem Tax Surcharge Rider for the year 2018.¹

2. Staff has prepared a Report and Recommendation (R&R) analyzing and recommending approval of Black Hills' 2018 property tax surcharge with conditions. Staff's R&R dated January 2, 2018, is attached hereto as "Attachment A" and is hereby adopted by the Commission and incorporated into this Order by reference.

II. DISCUSSION

3. Black Hills is requesting a refund (i.e. its sales and transportations customers be

¹ Application for Black Hills Energy 2018 Ad Valorem Tax Surcharge Rider Tariff (Dec. 13, 2017) (Application).

credited)² in the amount of \$1,447,181, which consists of the difference between Black Hills' 2017 total Ad Valorem tax assessments and the amount included in base rates established by the Commission in Black Hills' most recent general base rate proceeding 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 2017.³

4. Black Hills provided Staff with copies of Black Hills' 2017 Ad Valorem tax statements.⁴ Staff reviewed the tax statements provided by Black Hills and agreed with the total amount of 2017 Ad Valorem tax expense claimed by Black Hills in its Application.⁵ Additionally, Black Hills provided Staff information regarding the collection of 2017 Ad Valorem tax surcharge revenues and Corporate Ad Valorem tax expense allocated to Kansas.⁶ Staff reviewed this information and found it to be accurate.⁷ Staff also noted, when compared to Black Hills' last Ad Valorem proceeding, the refund to customers would be decreasing which would cause an increase in customer bills of approximately \$0.32 per month or \$3.90 annually.⁸

5. Ultimately, Staff recommended the Commission approve Black Hills' Ad Valorem refund of \$1,447,181 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 surcharge calculation; and
- 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-

² See Application, p. 1.

³ See Staff's Report and Recommendation, p. 2 (Jan. 2, 2018) (Staff R&R).

⁴ See *id.*

⁵ See *id.*

⁶ See *id.*

⁷ See *id.*

⁸ See *id.* at p. 1.

up in December of each calendar year.⁹

III. FINDINGS AND CONCLUSIONS

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 Hills' predecessor's Ad Valorem Tax Surcharge Rider.¹⁰ Black Hills submitted its present request in December 2017. 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' property 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 any 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 the filing.

9. Upon review of Staff's R&R and the record as a whole, the Commission finds and concludes the surcharge and resulting refund as calculated by Black Hills and reviewed by Staff will permit Black Hills to continue to substantially collect Ad Valorem tax expense charged on the books of Black Hills. Accordingly, the Commission finds and concludes substantial competent evidence

⁹ See *id.* at p. 3.

¹⁰ See Application, p. 1. See also Order, Docket No. 08-AQLG-834-TAR, pp.3-4 (Apr. 7, 2008).

exists to approve Black Hills' request in the instant proceeding, as conditioned in Staff's R&R.

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 \$1,447,181. Black Hills shall be permitted to refund over collected Ad Valorem taxes to its sales and transportation customers calculated at \$0.00967 per Therm, subject to the conditions contained within Staff's R&R and as detailed in paragraph 5 of this Order. The Commission finds and concludes a refund in the amount of \$0.00967 per Therm to Black Hills' sales and transportation customers will result in Black Hills substantially collecting Ad Valorem tax expense charged on its books, and will therefore result in just and reasonable rates. The Commission finds and concludes Black Hills' surcharge will be applied to bills in a reasonable manner.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

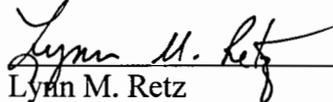
- A. Black Hills' request to refund its Ad Valorem tax expense is approved.
- B. Black Hills shall be permitted to refund over collected Ad Valorem taxes to its sales and transportation customers calculated at \$0.00967 per Therm, subject to the conditions contained within Staff's R&R and as detailed in paragraph 5 of this Order.
- C. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.¹¹
- D. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

¹¹ See also K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JAN 11 2018



Lynn M. Retz
Secretary to the Commission

REV

EMAILED

JAN 11 2018

ATTACHMENT "A"

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

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

DATE: January 2, 2018

SUBJECT: Docket No. 18-BHCG-249-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 2018.

EXECUTIVE SUMMARY:

Staff recommends approval of Black Hills Energy's (Black Hills) 2018 Ad Valorem Tax Surcharge Rider in the amount of a refund of \$1,447,181, which is an increase of \$821,801 from last year's surcharge rider amount.¹ This surcharge would be in effect during the period of February 2018 through January 2019 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 \$0.32 per month, or \$3.90 annually, compared to last year's surcharge rider.

BACKGROUND:

On December 13, 2017, Black Hills filed its 2018 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 requires a Commission Order within 30 days of the filing date which, in this Docket, is by January 12, 2018. Black Hills is requesting a refund of \$1,447,181 in its filing consisting of:

¹ Black Hills' surcharge rider that was approved last year (effective for the period of February 2017 through January 2018) amounted to a refund of \$2,268,982. Therefore, while the refund amount has decreased, the recoverable surcharge amount has increased by \$821,801.

1. The difference between its 2017 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 2017.²

The amount of Ad Valorem tax expense included in Black Hills' base rates was identified in a Stipulated Settlement Agreement.³ 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 2017 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 2017 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 2017 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.

RECOMMENDATION:

Staff recommends the Commission approve Black Hills' Ad Valorem refund of \$1,447,181 with the following conditions:

² The filing contains estimated recoveries for the month of December 2017, which will be trued up in next year's Ad Valorem Surcharge filing. Additionally, the filing contains the true-up of estimated December 2016 recoveries (from last year's Ad Valorem Surcharge filing) to actual December 2016 recoveries. See Attachment 1 of the Application.

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

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

18-BHCG-249-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on JAN 11 2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe

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JAN 11 2018