

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 ("Black Hills") for an Extension of its Certificate of Convenience and Authority to Operate as a Natural Gas Public Utility in an Area Heretofore Served by the City of Attica, Kansas, a Municipally Owned Natural Gas Utility )  
Docket No. 17-BHCG-511-ACQ

**APPLICATION**

Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy ("Black Hills" or "Applicant"), files this Application pursuant to the Order issued by the Kansas Corporation Commission ("Commission") on December 18, 2007, in Docket No. 08-ATMG-182-ACQ, which approved a program and filing template for natural gas utilities to acquire Kansas municipal gas systems, and requests an extension of its Certificate of Convenience and Authority pursuant to K.S.A. 66-131 to operate as a natural gas public utility in the area heretofore served by the City of Attica, Kansas, a municipally owned natural gas utility ("City of Attica"). In support whereof, Applicant states as follows:

1. That Applicant is a limited liability company organized under the laws of the State of Kansas. It is authorized to do business and is conducting business in the State of Kansas. Applicant is engaged, generally, in transporting, distributing and selling natural gas in Kansas. Black Hills delivers natural gas to approximately 114,000 residential, commercial, industrial and public authority customers in Kansas. Applicant's Kansas operations are subject to the jurisdiction of the Commission. Applicant's principal place of business within the State of Kansas is located at 601 N. Iowa Street, Lawrence, Kansas 66044.

2. Applicant has entered into an agreement with the City of Attica to purchase from the

City of Attica, all of its properties and facilities used for the distribution of natural gas in the City of Attica for \$300,000.00. The actual price paid does not exceed Black Hills' average embedded cost. Applicant intends to pay cash for the acquisition. An Ordinance and newspaper legal notice calling for the special election on the sale to Black Hills and the election results whereby the citizens of the City of Attica voted to sell the distribution system to Black Hills pursuant to K.S.A. 15-809, by an 82 to 11 margin are attached hereto as Exhibit 1 to this Application and incorporated herein by reference. Exhibit 2, filed as a late-filed exhibit, is the executed Asset Purchase Agreement between the City of Attica and Black Hills. Closing of the transaction is subject to the Commission's approval of this Application. Black Hills requests that an order approving the acquisition be issued so that Black Hills can close on July 31, 2017.

3. Applicant's financial strength and managerial expertise in the gas retail distribution business assure that Applicant's acquisition of the distribution system which serves approximately 375 customers from the City of Attica, will be in the public interest.

4. Applicant seeks permission to extend its Certificate of Convenience and Authority to operate as a natural gas utility in an area heretofore served by the City of Attica, Kansas, a municipally owned natural gas utility. Applicant is currently in negotiations with the City of Attica to obtain a franchise agreement and Applicant will file an executed copy of the franchise agreement with the Commission upon its execution pursuant to the Commission's order relating to the notice-filing of franchise agreements with the Commission. A metes and bounds legal description of the territory in which Applicant seeks a Certificate of Convenience and Authority and a map showing the territory are attached as Exhibit 3 to this Application.<sup>1</sup>

5. Applicant is seeking to change the current rates for natural gas service to customers in

---

<sup>1</sup>Black Hills Energy currently holds a certificate for Section 18, Township 32 South, Range 8 West.

the City of Attica. Applicant intends to use its statewide approved rates that are currently on file with the Commission and intends to render efficient and sufficient service to the present customers of Attica, Kansas. A comparison of the City of Attica's rates and Applicant's proposed rates is set forth in Exhibit 4 to this Application and incorporated herein by reference.

6. Immediate major improvements to the acquired distribution assets will include approximately \$50,000 in year one to upgrade service regulators and attach ERTs to meters. There is no surcharge being requested as part of this Application.

7. Applicant is mailing notice to each customer and is requesting that the customers submit any comments to the Commission no later than June 26, 2017. The notice contains a comparison of the municipality's rates and Black Hills' rates. A copy of the Notice and a verified certificate of mailing will be late-filed as Exhibit 5.

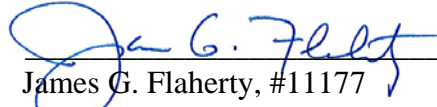
8. The upstream transportation capacity contracts will be assigned to Black Hills at the time of closing.

9. The existing supply contracts with West Wichita Gas Gathering will be terminated and Black Hills will purchase supply in accordance with its normal purchasing practices.

10. Black Hills also requests it be allowed for accounting and ratemaking purposes to record the purchase price of the system assets at Black Hills' current distribution system average per customer embedded cost for meters, services and mains on an original cost basis.

WHEREFORE, Applicant requests (1) that a Certificate of Convenience and Authority be issued granting the right to transact the business of a natural gas public utility to Black Hills in the territory described in Exhibit 3 of the Application pursuant to K.S.A. 66-131; (2) to put into effect for such service Applicant's current rates which are set forth in Exhibit 4 and which are on file with the Commission; (3) to be allowed, for accounting and ratemaking purposes, to record the purchase price

of the system assets at Black Hills' current distribution system average per customer embedded cost for meters, services and mains on an original cost basis (4) that no separate accounting be required from Black Hills; and (5) for such other relief that is found to be necessary by the Commission as just and reasonable in this matter.



---

James G. Flaherty, #11177

**ANDERSON & BYRD, LLP**

216 S. Hickory, P. O. Box 17

Ottawa, Kansas 66067

(785) 242 1234, telephone

(785) 242 1279, facsimile

[jflaherty@andersonbyrd.com](mailto:jflaherty@andersonbyrd.com)

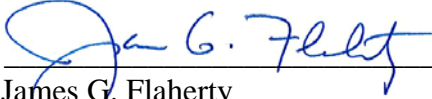
Attorneys for Black Hills/Kansas Gas Utility Company,  
LLC, d/b/a Black Hills Energy

**VERIFICATION**

STATE OF KANSAS            )  
  )ss:  
COUNTY OF FRANKLIN    )

James G. Flaherty, of lawful age, being first duly sworn on oath, states:

That he is the attorney for Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy ("Black Hills"), named in the foregoing Application, and is duly authorized to make this affidavit; that he has read the foregoing Application, and knows the contents thereof; and that the facts set forth therein are true and correct.

  
\_\_\_\_\_  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of May, 2017.



  
\_\_\_\_\_

Notary Public

Appointment/Commission Expires:

## EXHIBIT 1

Ordinance, Notice of Election and  
Election Results

(First Published in the Attica Independent on the  
2<sup>nd</sup> of February, 2017 )

THE CITY OF ATTICA, KANSAS

ORDINANCE NO. G-1235-17-01

AN ORDINANCE CALLING FOR AN ELECTION ON THE  
ISSUE OF THE SALE OF THE GAS SYSTEM LOCATED  
WITHIN THE CORPORATE LIMITS OF AND OWNED BY  
THE CITY OF ATTICA, KANSAS, PURSUANT TO THE  
PROVISIONS OF K.S.A. 15-809.

WHEREAS, the City of Attica, Kansas owns and operates a natural gas system located within its corporate boundaries; and

WHEREAS, the Governing Body of the City of Attica, Kansas believes it is in the best interest of the residents of the City of Attica to sell said natural gas system; and

WHEREAS, the Governing Body of the City of Attica, Kansas has received a proposal from Black Hills/Kansas Gas Utility Company, LLC to purchase said natural gas system; and

WHEREAS, K.S.A. 15-809 requires the City of Attica, Kansas, as a city of the third class which desires to sell its gas system, to pass an ordinance calling an election concerning said sale within 40 days of passage of said ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ATTICA, KANSAS:

Section 1. Election Called

An election is hereby called, as provided by K.S.A. 15-809, to be conducted by the Election Commissioner of Harper County, Kansas at Attica Memorial Building, 302 N Main, which is within the corporate boundaries of the City of Attica, Kansas, between the hours of 7:00 A.M. to 7:00 P.M. on the 28<sup>th</sup> day of February, 2017, which is within 40 days after the passage of this ordinance, for the purpose of voting on the sale of the natural gas system of the City of Attica, Kansas to Black Hills/Kansas Gas Utility Company, LLC.

Section 2. Ballot Proposition

The proposition on the ballot shall be:

Shall the following be adopted?

Shall the City of Attica, Kansas sell its natural gas system to Black Hills/Kansas Gas Utility Company, LLC for the purchase price of \$300,000.00?

Section 3. Publication

The mayor shall cause a notice of the election to be published once a week for two consecutive weeks in the official city newspaper, the first publication to be not less than 21 days preceding the election. The notice shall state the purpose of the election, giving the sale price and the name of the purchaser, the date of the election, and the places of voting.

Section 4. Election Expenses

Black Hills/Kansas Gas Utility Company, LLC, as the proposed purchaser, shall bear all expenses associated with the election.

Section 5. Effective Date

This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the City Council this 16<sup>th</sup> day of January, 2017.

Approved by the Mayor this 25th day of January, 2017.



ATTEST:

  
CITY CLERK

  
MAYOR



\$60.00.

Jeremy W. Magill, speeding, \$165.00.

Jose C. Sanchez Legorreta, failure to wear seatbelt, \$10.00.

Timothy V. Wendell, speeding, \$159.00.

### **LIMITED**

Midland Funding LLC vs. Justin W. Wootonn, seller plaintiff.

### **DEEDS**

Quit Claim Deed. Beverly K. Worthington to C. Wesley Wiley, the S/2 of the NE/4 and the N/2 of the SE/4 of Sect. 24, Twp. 31 S, Range 8 W of the 6th P.M., Harper County, Kansas.

General Warranty Deed. Elsie J. Gardner and Robert L. Gardner to Jane Gardner, Lot 9 in Blk. 35 in the Original City of Harper, Harper County, Kansas.

Quit Claim Deed. Angela

Bentley and Terry Bentley to Donna M. Jaeger, Lots 22, 23 and 24 in Blk. 32 (aka 423 E. Main) in the City of Anthony, Harper County, Kansas.

General Warranty Deed. Carl H. Jones to Rory Cooper and M. Kristin Cooper; and Robbie Drew Cooper, a tract of land in the NW/4 of Sect. 29, Twp. 32 S, Range 8 W of the 6th P.M. (aka 596 NW 100th Aye), Harper County, Kansas.



The February 9, 2017

**ATTICA INDEPENDENT**

## **NOTICE OF ELECTION**

The City of Attica will conduct a special election on February 28, 2017, 7 AM to 7 PM at the Attica Memorial Building to determine whether or not to sell the city's natural gas distribution system to Black Hills/Kansas Gas Utility Company, LLC for a purchase price of \$300,000.

## **LEGAL NOTICE • LEGAL NOTICE**

(First published in the Attica Independent on the 2nd day of February, 2017) 2t

THE CITY OF ATTICA, KANSAS

ORDINANCE NO. G-1235-17-01

AN ORDINANCE CALLING FOR AN ELECTION ON THE ISSUE OF THE SALE OF THE GAS SYSTEM LOCATED WITHIN THE CORPORATE LIMITS OF AND OWNED BY THE CITY OF ATTICA, KANSAS, PURSUANT TO THE PROVISIONS OF K.S.A. 15-809.

WHEREAS, the City of Attica, Kansas owns and operates a natural gas system located within its corporate boundaries; and

WHEREAS, the Governing Body of the City of Attica, Kansas believes it is in the best interest of the residents of the City of Attica to sell said natural gas system; and

WHEREAS, the Governing Body of the City of Attica, Kansas has received a proposal from Black Hills/Kansas Gas Utility Company, LLC to purchase said natural gas system; and

WHEREAS, K.S.A. 15-809 requires the City of Attica, Kansas, as a city of the third class which desires to sell its gas system, to pass an ordinance calling an election concerning said sale within 40 days of passage of said ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ATTICA, KANSAS:

### **Section 1. Election Called**

An election is hereby called, as provided by K.S.A. 15-809, to be conducted by the Election Commissioner of Harper County, Kansas at Attica Memorial Building, 302 N Main, which is within the corporate boundaries of the City of Attica, Kansas, between the hours of 7:00 A.M. to 7:00 P.M. on the 28<sup>th</sup> day of February, 2017, which is within 40 days after the passage of this ordinance, for the purpose of voting on the sale of the natural gas system of the City of Attica, Kansas to Black Hills/Kansas Gas Utility Company, LLC.

### **Section 2. Ballot Proposition**

The proposition on the ballot shall be:

Shall the following be adopted?

Shall the City of Attica, Kansas sell its natural gas system to Black Hills/Kansas Gas Utility Company, LLC for the purchase price of \$300,000.00?

### **ANNUAL MEETING OF HARPER COUNTY CONSERVATION DISTRICT**

Within the boundaries of the Harper County Conservation District, notice is hereby given that pursuant to the provisions of K.S.A. 16-1001, the annual meeting of the Harper County Conservation District shall be held on the 27th day of February, 2017, at 6:00 P.M. at the Municipal Hall, 130 E Main Street, Attica, Kansas.

The following business items:

1. The Harper County Conservation District shall make a report of its activities and financial affairs since the last meeting.

2. The election of qualified electors, to serve for a term of three years.

3. The terms of Bruce Miller are expiring.

4. The state of Kansas.

Conservation District

Attica City Special Election- February 28, 2017	# registered voters	431		431
	persons voting	93	0	93
	percentage voting	22%		22%
	polling location	Attica City	Provisional	TOTAL

### City Question

Shall the Following Be Adopted?

Shall the City of Attica, Kansas sell its natural gas system to Black Hills/Kansas Gas Utility Company, LLC for the purchase price of \$300,000?

Yes	82		82
No	11		11

**\*\*Official results: passed based on percentage of voted ballots\*\***

### STATE OF KANSAS, HARPER COUNTY, ss.

We, the Undersigned , Members of the Board of County Commissioners in and for said County, and ex-officio Board of Canvassers for said County, do hereby certify that the foregoing Abstract of Votes Cast at the February 28 Attica Special Election held in the several precincts in said county on the above date, is correct as shown by the returns of said election on file in the County Clerk's office, and canvassed by us this 6th day of March , A.D., 2017.

Witness Our Hands, This 6th day of March, A.D., 2017.

2017



ATTEST:

Ruth A Elliott, County Clerk

Lee Adams  
Board of Canvassers - Lee Adams

Brian Waldschmidt  
Board of Canvassers - Brian Waldschmidt

Carla Pence  
Board of Canvassers - Carla Pence

EXHIBIT 2

Asset Purchase Agreement  
[late-filed]

## EXHIBIT 3

Metes and Bounds Legal Description

Sections 19, 20, 29 and 30, T32S, R8W  
All in Harper County, KS

Map of Territory





## EXHIBIT 4

Comparison of the City of Attica's  
Rates and Applicant's Proposed Rates

## Exhibit 4

	Usage Dth	Gas Cost \$/Dth	Meter Charge \$/Mo	Total
Mar-16	10.9	\$ 9.95	\$ -	\$ 108.46
Apr-16	7.1	\$ 9.95	\$ -	\$ 70.65
May-16	4.0	\$ 9.95	\$ -	\$ 39.80
Jun-16	1.8	\$ 9.95	\$ -	\$ 17.91
Jul-16	1.5	\$ 9.95	\$ -	\$ 14.93
Aug-16	1.4	\$ 9.95	\$ -	\$ 13.93
Sep-16	1.6	\$ 9.95	\$ -	\$ 15.92
Oct-16	2.1	\$ 9.95	\$ -	\$ 20.90
Nov-16	4.1	\$ 9.95	\$ -	\$ 40.80
Dec-16	10.5	\$ 9.95	\$ -	\$ 104.48
Jan-17	14.1	\$ 9.95	\$ -	\$ 140.30
Feb-17	11.9	\$ 9.95	\$ -	\$ 118.41
TOTAL	71.0			\$ 706.45

[illegible]

EXHIBIT 5

Notice and Verified Certificate of Mailing  
[late-filed]