

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Application of Black)
Hills/Kansas Gas Utility Company, LLC, d/b/a) Docket No. 25-BGCG-097-COC
Black Hills Energy, for a Certificate of)
Convenience and Authority to transact the)
business of a natural gas public utility in a)
Portion of Douglas County, Kansas.)

ORDER AND CERTIFICATE

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission). Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On September 24, 2024, Black Hills/Kansas Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills) filed an Application with the Commission seeking a Certificate of Convenience and Authority to transact the business of a natural gas public utility in a tract of land (Tract) in Douglas County.¹

2. Pursuant to Black Hills' application filed on September 24, 2024, it requested the Commission issue an Order granting it authority to transact the business of a natural gas public utility in the following described territory, to wit:

DOUGLAS COUNTY, KANSAS

Sections 25, 26, 35 and 36, Township 12 South, Range 18 East
Sections 30 and 31, Township 12 South, Range 19 East
Sections 1 and 2, Township 13 South, Range 18 East

¹ Application of Black Hills (Sep. 24, 2024) (Application).

Section 6, Township 13 South, Range 19 East.

3. On September 24, 2024, Atmos Energy Corporation (Atmos) filed an Application with the Commission in Docket No. 25-AMTG-096-CCS seeking to cease serving the area proposed described in paragraph no. 2, above. The territory to be served by Black Hills is located within the territory of Atmos and adjacent to the service territory certificated to Black Hills. Atmos has no facilities or customers receiving natural gas in the Tract of land and no plans to serve this area. Black Hills contacted Atmos and requested permission to serve potential customers located within the Tract. Atmos agreed, subject to approval by the Commission.

4. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant and relinquish a Certificate to any public utility seeking to transact or terminate business in the State of Kansas.

5. On October 16, 2024, Commission Staff (Staff) submitted its Report and Recommendation (R&R), attached hereto and incorporated by reference, recommending the Commission grant the Application filed by Black Hills to transact the business of a natural gas public utility in the territory specified in its application. Staff reviewed the Application of Black Hills in determining that the legal description and map provided with the filing is accurate and not in conflict with the Commission's records. Upon approval, the updated territory description will be reflected in the Commission's certified territory map.² Staff determined there are over 240 homes located in the Tract. By allowing Atmos, who has no facilities or customers receiving natural gas in the Tract of land and no plans to serve the area, to cease serving this area and allowing Black Hills to serve potential customers, the public convenience will be promoted as homeowners will have a potential option of obtaining natural gas as a fuel source.³

² R&R at 2.

³ *Id.*

6. The Commission adopts Staff's analysis and recommendation of October 16, 2024, as stated in its Report and Recommendation, and finds that the Application of Black Hills should be granted, and an Order should be issued authorizing Black Hills to transact the business of a natural gas public utility in the requested territories.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:


A. Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy's Application, filed on September 24, 2024, is approved and it is hereby granted a certificate to transact the business of a natural gas public utility in the territories identified in their application.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁴

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 10/24/2024 _____



Lynn M. Retz
Executive Director

AAL

⁴K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Jason Kerr, Electric Utility Engineering Technician
Paul Owings, Deputy Chief Engineer
Jeff McClanahan, Director of Utilities

DATE: October 16, 2024

SUBJECT: **Docket No. 25-ATMG-096-CCS** - In the Matter of the Application of Atmos Energy Corporation to Cease Service as a Natural Gas Public Utility in a Limited Portion of Douglas County, Kansas.

Docket No. 25-BHCG-097-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 Convenience and Authority to transact the business of a natural gas public utility in a Portion of Douglas County, Kansas.

EXECUTIVE SUMMARY:

In Docket 25-ATMG-096-CCS, Atmos Energy Corporation (Atmos) filed an Application to Cease Service as a Natural Gas Public Utility in a small tract of land (Tract) in Douglas County. In Docket 25-BHCG-097-COC, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) is requesting a Certificate of Public Convenience and Authority to transact the business of a Natural Gas Public Utility in this Tract.

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

BACKGROUND:

On September 24, 2024, Atmos brought Docket 25-ATMG-096-CCS by filing an Application to Cease transacting as a Natural Gas Public Utility for Tract of nine square miles in Douglas County, described as follows:

Sections 25, 26, 35 and 36, Township 12 South, Range 18 East

Sections 30 and 31, Township 12 South, Range 19 East

Sections 1 and 2, Township 13 South, Range 18 East

Section 6, Township 13 South, Range 19 East.

On September 24, 2024, Black Hills brought Docket 25-BHCG-097-COC, by filing an Application for the Certificate of Convenience and Authority to engage in the business of a Natural Gas Public Utility in this Tract.

The above-described Tract of land is currently located within the certified service territory of Atmos and is adjacent to the service territory currently certificated to Black Hills.

Black Hills contacted Atmos requesting permission to serve potential customers located within this tract of land. Atmos agreed, subject to approval by the Commission that as a matter of public convenience any customers located within this tract would be best served by Black Hills.

Through a Data Request, Atmos affirmed they have no facilities or customers receiving natural gas in the Tract of land being released in their Application.

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 on the proposed project and by permitting the Applicant to transact the business of a common carrier or public utility.

ANALYSIS:

Staff has reviewed both Atmos and Black Hills Applications and confirmed the legal descriptions included in each Application are correct and are accurately depicted on the maps attached to their Applications. Staff has also confirmed that the attached legal description, marked Attachment A, is not in conflict with the Commission's Certificate records.

Staff's research shows there are over 240 homes located in this tract of land. By granting a Certificate to Black Hills, the public convenience will be promoted as the homeowners will potentially have the option of obtaining natural gas as a fuel source.

The Commission action date is January 20, 2025.²

¹ K.S.A. 66-131.

² K.S.A. 66-131(b).

RECOMMENDATION:

Staff recommends that the Commission grant these Applications. Upon approval, the updated territory descriptions will be reflected in the Commission's certified territory map.

ATTACHMENT A

Legal Description

Atmos Energy Corporation and Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills
Energy

Docket No. 25-ATMG-096-CCS

Docket No. 25-BHCG-097-COC

DOUGLAS COUNTY, KANSAS

Sections 25, 26, 35 and 36, Township 12 South, Range 18 East

Sections 30 and 31, Township 12 South, Range 19 East

Sections 1 and 2, Township 13 South, Range 18 East

Section 6, Township 13 South, Range 19 East.

CERTIFICATE OF SERVICE

25-BHCG-097-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
electronic service on 10/24/2024.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

DOUGLAS LAW, ASSOCIATE GENERAL COUNSEL
BLACK HILLS/KANSAS GAS UTILITY COMPANY, LLC
D/B/A BLACK HILLS ENERGY
1731 WINDHOEK DRIVE
LINCOLN, NE 68512
douglas.law@blackhillscorp.com

/S/ KCC Docket Room

KCC Docket Room