

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

Before the Commissioners:           Dwight D. Keen, Chair  
                                              Shari Feist Albrecht  
                                              Susan K. Duffy

In the Matter of the Application of Black Hills/Kansas           )  
Gas Utility Company, LLC, d/b/a Black Hills Energy,           )  
For a Certificate of Public Convenience and Authority           )   Docket No. 20-BHCG-088-COC  
to Transact the Business of a Natural Gas Public Utility           )  
in Certain Portions of Morton County Kansas.                   )

**ORDER GRANTING APPLICATION**

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

**I.       Background**

1.       On August 20, 2019, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (“Black Hills”) filed an Application requesting permission for Certificate of Convenience and Necessity in Morton County, Kansas.<sup>1</sup>

2.       Black Hills requests that it be granted permission to operating as a natural gas public utility in the following described territory to wit:

North Half (N/2), Section 9, Township 35 South, Range 42 West

All of Sections 1-3, 10-15 and 22-24, Township 35 South Range 42 West

All in Morton County Kansas.<sup>2</sup>

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<sup>1</sup> *Black Hills/Kansas Gas Utility Company, LLC Amended Application*, (“Black Hill’s Application”), (Aug. 29, 2019).

<sup>2</sup> *Id.*

3. On November 5, 2019, the Commission Staff (“Staff”) submitted its Report and Recommendation dated November 5, 2019, recommending the Commission grant Black Hills’ request for permission to operate as a natural gas public utility in the territory described in paragraph 2 above.<sup>3</sup>

## **II. Legal Standards and Discussion**

4. Pursuant to K.S.A. 66-131, the Commission has jurisdiction to grant a Certificate to any public utility seeking to transact business in the State of Kansas. The standard for granting a certificate under K.S.A. 66-131 is that public convenience and necessity will be promoted by the granting of a certificate. K.S.A. 66-1,201 et seq., more specifically, gives the Commission full power, authority and jurisdiction to supervise and control natural gas public utilities and is authorized to do anything necessary and convenient for the exercise of such power, authority and jurisdiction.

5. Black Hills has executed an Asset Purchase Agreement with Oneok Partners (“Oneok”) to purchase three miles of pipeline used to move gas to the city gate of Elkhart, Kansas called the Elkhart Lateral.<sup>4</sup> The Elkhart Lateral is not currently a regulated line and there are no customers currently being served natural gas.

6. The Elkhart Lateral will benefit Black Hills’ Kansas customers by lowering purchase gas costs by eliminating transportation costs on Oneok by approximately \$42,000 per year and will allow for expansion of natural gas service in the newly certificated area. The nearest processed line is approximately seven miles away.<sup>5</sup>

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<sup>3</sup> *Report and Recommendation*, at 1 (Nov. 5, 2019).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

7. Based on the foregoing information, and the absence of any objection, Staff recommends the Commission find that public convenience will be promoted by the granting Black Hill's Application to operate as a natural gas public utility in the portion of land described above in paragraph 2.

### **III. Findings and Conclusion**

8. The Commission finds pursuant to K.S.A. 66-131, public convenience and necessity will be promoted by granting the Black Hill's Application for permission to operate as a natural gas public utility in the area described above in paragraph 2.

9. The Commission adopts Staff's Report and Recommendation dated November 5, 2019, which is attached hereto and made a part hereof by reference.

#### **THEREFORE, THE COMMISSION ORDERS:**

A. Black Hill's Application requesting permission for Certificate of Convenience and Necessity is granted pursuant to K.S.A. 66-131.

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).<sup>6</sup>

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

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<sup>6</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/14/2019

A handwritten signature in cursive script, reading "Lynn M. Retz".

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Lynn M. Retz  
Executive Director

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Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Dwight D. Keen  
Commissioner Shari Feist Albrecht  
Commissioner Susan K. Duffy

**FROM:** Jason Kerr, Electric Utility Engineering Technician  
Leo Haynos, Chief Engineer  
Jeff McClanahan, Director of Utilities

**DATE:** November 5, 2019

**SUBJECT:** 20-BHCG-088-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 Public Convenience and Authority to  
Transact the Business of a natural Gas public utility in Certain Portions of Morton  
County, Kansas.

**EXECUTIVE SUMMARY:**

In Docket 20-BHCG-088-COC, Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) filed the above-captioned Application requesting to expand their certified territory in Morton County, Kansas.

Staff recommends that the Commission grant this Application.

**BACKGROUND:**

On August 20, 2019, Black Hills filed Docket 20-BHCG-088-COC, wishing to expand their Natural Gas Certificate in Morton County.

Black Hills has executed an Asset Purchase Agreement with the Oneok Partners (Oneok) to purchase three miles of pipeline used to move unprocessed gathering gas to the city gate of Elkhart, Kansas (Elkhart Lateral). The Elkhart Lateral is not currently a regulated line, and there are no customers currently being served natural gas on the Elkhart Lateral.

**ANALYSIS:**

The Elkhart Lateral will benefit Black Hills' Kansas customers by lowering gas cost by eliminating transportation cost on Oneok by approximately \$42,000 per year and by providing a high-pressure source to allow for expansion of natural gas service in the area proposed in their Application. The nearest processed line is approximately seven miles away.

Staff has reviewed Black Hills Application and has confirmed the legal description included in the Application is accurately depicted on the map attached to the Application. Staff has also confirmed that the attached legal description, marked attachment A, is not in conflict with the Commission's Certificate records.

The Commission action date is February 15, 2020.

**RECOMMENDATION:**

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

ATTACHMENT A  
Legal Description  
Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy  
Docket No. 20-BHCG-088-COC

MORTON COUNTY, KANSAS

North Half (N/2), Section 9, Township 35 South, Range 42 West.

All of Sections 1-3, 10-15 and 22-24, Township 35 South, Range 42 West.

## **CERTIFICATE OF SERVICE**

20-BHCG-088-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 11/14/2019.

THOMAS D. STEVENS, DIRECTOR OF REGULATORY  
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/S/ DeeAnn Shupe  
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DeeAnn Shupe