

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

**In the Matter of the Joint Application of Aquila, Inc., )  
d/b/a Aquila Networks - KGO, Black Hills )  
Corporation and Black Hills/Kansas Gas Utility )  
Company, LLC ("BH Kansas Gas"), Joint )  
Applicants, for an Order Approving the Transfer to )  
BH Kansas Gas of Aquila's Certificates of )  
Convenience and Necessity and Franchises with )  
Respect to all of Aquila's Kansas Natural Gas )  
Business, Including its Transmission and Distribution )  
Facilities Located in the State of Kansas, and for )  
Other Related Relief.**

**Docket No. 07-BHCG-1063-ACQ**

**STATE CORPORATION COMMISSION**

**APR 04 2007**

**JOINT APPLICATION**

**INTRODUCTION**

*Susan K. Duffe* Docket Room

COME NOW, Aquila, Inc., d/b/a Aquila Networks - KGO ("Aquila"), Black Hills Corporation ("Black Hills") and BH Kansas Gas (together referred to as "Joint Applicants") and pursuant to K.S.A. 66-101, *et. seq.*, 66-104, 66-117, 66-131, 66-136, 66-1,200 *et seq.*, and other applicable statutes, hereby jointly apply to the State Corporation Commission of the State of Kansas ("Commission") for an Order: i) approving the transfer to BH Kansas Gas of Aquila's certificates of convenience and necessity and franchises with respect to all of Aquila's Kansas natural gas business and operations, including Aquila's regulated transmission and local distribution assets located in the State of Kansas in accordance with the provisions of the Asset Purchase Agreement, dated February 6, 2007, entered into by and among Aquila, Black Hills, Great Plains Energy Incorporated, a Missouri corporation ("GPE"), and Gregory Acquisition Corp., a Delaware corporation ("Merger Sub"); and ii) adoption of Aquila's retail tariff rates and general rules and regulations; and iii) for all other related relief that may be required to fulfill the intents and purposes of the parties to the transaction described below. Each

schedule attached to this Joint Application is hereby incorporated by reference. In support of their Joint Application, Joint Applicants respectfully state as follows:

**I. THE APPLICANTS**

1. Aquila is a corporation duly organized under the laws of the State of Delaware and has its principal place of business at 20 West Ninth Street, Kansas City, Missouri 64105. It is duly authorized to transact business in the State of Kansas as a foreign corporation. Aquila serves approximately one million electric and gas customers in the Midwest. It currently owns and operates natural gas utility businesses in Kansas, Iowa, Nebraska and Colorado, and owns and operates electric utility businesses in Missouri and Colorado. Aquila holds appropriate certificates of convenience and necessity from this Commission to transact business as a natural gas public utility and is now engaged in the purchase, transmission, sale and distribution of natural gas in the State of Kansas in accordance with state laws and rules and regulations of this Commission. Aquila provides retail natural gas service to approximately 106,000 customers in Kansas, including natural gas service to approximately 54 communities and other areas throughout 35 counties in Kansas. Aquila's Articles of Incorporation and Bylaws, and its rates, terms and conditions of service and other tariffs, are already on file with the Commission, which are incorporated herein by reference. Attached as Schedule 1 is a copy of Aquila's service area for Kansas and the other states in which it operates. Aquila currently has a rate proceeding before the Commission in Docket No. 07-AQLG-431-RTS.

2. Black Hills is a "holding company" under the Public Utility Holding Company Act of 2005 ("PUHCA 2005"). Black Hills is a corporation duly organized under the laws of South Dakota and listed on the New York Stock Exchange (symbol BKH). Black Hills has approximately 850 employees and assets totaling approximately \$2.2 billion, with its principal place of business at 625

Ninth Street, Rapid City, South Dakota 57701. A copy of Black Hills' current corporate organizational chart is attached as Schedule 2. Black Hills, through its utility subsidiaries, provides retail natural gas and electric service to approximately 137,000 utility customers in South Dakota, Wyoming, and Montana. Attached as Schedule 3 is a map of the utility service area in those states. A certified copy of Black Hills' Certificate and Articles of Incorporation and a copy of its Bylaws are attached as Schedule 4.

3. BH Kansas Gas is a Limited Liability Company duly organized under the laws of the State of Kansas and has its principal place of business at 625 Ninth Street, Rapid City, South Dakota 57701. BH Kansas Gas is a wholly-owned subsidiary of Black Hills. BH Kansas Gas is duly authorized to transact business in the State of Kansas. BH Kansas Gas has been formed for the purpose of the transaction between Aquila and Black Hills described below, and at the closing of the transaction BH Kansas Gas will own and operate the Kansas natural gas business and assets that Black Hills is acquiring from Aquila. A certified copy of BH Kansas Gas' Articles of Organization authorizing it to do business in Kansas is attached as Schedule 5.

4. Pleadings, notices, orders and other correspondence and communications concerning this Joint Application and proceeding should be addressed to the undersigned counsel, as well as to:

**AQUILA**

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## **BLACK HILLS**

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## **II. INFORMATION ABOUT BLACK HILLS**

### **A. OVERVIEW OF BLACK HILLS**

5. Black Hills is a diversified energy company engaged in two principal lines of business: electric and gas utility service in three states, and wholesale energy production and marketing throughout the western United States and western Canada. In addition, Black Hills maintains a wholly-owned subsidiary that provides centralized services to affiliate companies in the Black Hills system. Black Hills conducts its electric and gas utility businesses through two wholly-owned utility operating company subsidiaries, Black Hills Power, Inc. ("Black Hills Power"), and Cheyenne Light, Fuel and Power Company ("Cheyenne Light"). Black Hills has proven expertise in operating utility assets and is committed to providing safe, reliable, and high quality services at just and reasonable rates.

## **B. DESCRIPTION OF BLACK HILLS' UTILITY OPERATIONS**

### **BLACK HILLS POWER**

6. Black Hills Power was organized in 1941 and has served retail electric customers through its predecessors since the early 1880s. Black Hills Power currently provides retail electric service to approximately 65,000 customers in South Dakota, Wyoming, and Montana in a service territory that covers approximately 9,300 square miles. Black Hills Power's retail customer base is a mix of residential, commercial, and industrial customers.

7. Black Hills Power is subject to regulation as a public utility under the public utility laws of the states of South Dakota, Wyoming, and Montana with respect to retail electric rates and charges and the issuance of most of its securities. Black Hills Power also is subject to regulation by the Federal Energy Regulatory Commission ("FERC") pursuant to the Federal Power Act with respect to the classification of accounts, rates for wholesale sales of electricity, the interstate transmission of electric power and energy, interconnection agreements, and acquisitions and sales of certain utility properties.

8. Black Hills Power also makes wholesale sales of electric capacity and energy to municipal and investor-owned utility customers in Wyoming and Nebraska and to other off-system wholesale customers throughout the western United States under rate schedules and tariffs on file with the FERC. Black Hills Power owns and operates approximately 435 MW of generating capacity located in South Dakota and Wyoming that it uses to serve its retail and wholesale customers and also to make off-system wholesale electric capacity and energy sales.

9. Black Hills Power owns 2300 miles of low voltage distribution lines serving its retail customers. It also owns 480 miles of 69 kV lines and owns or jointly owns 494 miles of 230 kV

transmission lines in South Dakota, Wyoming, and Nebraska. Black Hills Power operates its transmission system as part of the “Common Use System,” a jointly-operated system comprising the transmission facilities of Black Hills Power, Basin Electric Power Cooperative (“Basin Electric”), and Powder River Energy Corporation (“PRECorp”). Black Hills Power serves as Joint Tariff Administrator for the joint open access transmission tariff on file with the FERC under which Black Hills Power, Basin Electric, and PRECorp provide transmission service on the Common Use System (“Joint OATT”). Because of the system’s isolated location, Black Hills Power provides transmission service to only a small number of third-party customers.

10. Black Hills Power and Basin Electric jointly own an AC-DC-AC transmission tie (or converter station) located near Rapid City, South Dakota (“Rapid City Tie”), that provides an electric interconnection between the Western and Eastern transmission grids in the United States. The Rapid City Tie provides 200 MW of electric transfer capability in each direction between the Western and Eastern grids. Transmission service over the Rapid City Tie is available under the Joint OATT. Black Hills Power’s right to schedule energy flows on the Rapid City Tie gives it the ability to buy and sell energy in the Eastern interconnection, creating valuable opportunities for Black Hills Power to market surplus energy generated in the west or to purchase energy generated in the east for consumption in the west.

### **CHEYENNE LIGHT**

11. Cheyenne Light is a Wyoming corporation that has been in existence since 1900. Cheyenne Light is a combination electric and natural gas utility that serves retail customers in and around Cheyenne, Wyoming, the state capital. Cheyenne Light serves approximately 39,000 electric customers and 33,000 gas customers. Black Hills acquired Cheyenne Light from Xcel Energy, Inc.

("Xcel Energy"), in January 2005. Cheyenne Light is subject to regulation as a public utility by the Wyoming Public Service Commission under the public utility laws of the State of Wyoming with respect to retail electric and natural gas rates and charges and the issuance of most of its securities.

12. Cheyenne Light does not currently serve any wholesale customers or transmission customers, thus is not currently subject to regulation by the FERC. Cheyenne Light does not currently own any generating capacity, but it is in the process of constructing a 90 MW (net) mine-mouth coal-fired generating facility at Gillette, Wyoming ("Wygen II Plant"), that Cheyenne Light will use for base-load generating capacity and energy to meet its customers' needs. The Wygen II Plant is expected to begin commercial operations during the first quarter of 2008. In conjunction with these and other developments, Cheyenne Light intends to file wholesale power sales tariffs and an open access transmission tariff with the FERC during 2007. As a FERC-jurisdictional public utility, Cheyenne Light will become subject to regulation by the FERC with respect to the classification of accounts, rates for wholesale sales of electricity, the interstate transmission of electric power and energy, interconnection agreements, and acquisitions and sales of certain utility properties.

13. Cheyenne Light currently serves its customers' electricity requirements under an all-requirements contract with Public Service Company of Colorado ("PSCo"), a subsidiary of Xcel Energy. Prior to its acquisition by Black Hills in 2005, Cheyenne Light executed contracts with Black Hills Wyoming, Inc., an unregulated wholesale subsidiary of Black Hills. Those contracts are for 40 MW of energy from the Gillette Combustion Turbine and 60 MW of base-load capacity and energy from the Wygen I coal-fired power plant. Cheyenne Light previously assigned these contracts to PSCo, but they revert back to Cheyenne Light at the end of 2007 in coordination with the termination

of the PSCo all-requirements contract. The Gillette Combustion Turbine contract expires on August 31, 2011, and the Wygen I contract expires on March 31, 2013.

14. Cheyenne Light provides natural gas service to both distribution service customers and transportation customers. Cheyenne Light purchases natural gas from independent suppliers delivered through transportation contracts with interstate pipelines and through deliveries by suppliers directly to certain transportation customers. Cheyenne Light's annual gas deliveries include 4.1 million dekatherms in sales to commercial and residential customers and 8.3 million dekatherms to transportation customers.

15. At the time it was acquired in 2005, Cheyenne Light was suffering from customer service and billing system problems, challenges with regulators, and exposure to volatile purchased power and natural gas costs. In addition to commencing construction of Wygen II, Black Hills created and successfully implemented an aggressive plan that dramatically improved customer service and satisfaction, improved relations with regulators, and improved natural gas procurement and supply. In addition, Black Hills directed the preparation of an Integrated Resource Plan that ultimately led to Cheyenne Light receiving a Certificate of Public Convenience and Necessity from the Wyoming Public Service Commission to begin construction of Wygen II.

**C. DESCRIPTION OF BLACK HILLS' WHOLESALE ENERGY PRODUCTION AND MARKETING BUSINESS**

16. Black Hills conducts its wholesale energy production and marketing business through its wholly-owned subsidiary, Black Hills Energy, Inc. ("Black Hills Energy"). Black Hills Energy has four direct subsidiaries: Black Hills Generation, Inc. ("Black Hills Generation"), Black Hills



Exploration and Production, Inc. (“BHEP”), Wyodak Resources Development Corp. (“Wyodak Resources”), and Enserco Energy Inc. (“Enserco”).

17. Black Hills Generation’s power production business owns and operates approximately 978 MW of unregulated generating capacity located in Colorado, Nevada, Wyoming, California, and Idaho. Black Hills Generation also owns investments in power-related funds with a net ownership interest of approximately 11 MW. Black Hills Generation sells wholesale capacity and energy under a combination of mid to long-term contracts, which helps to mitigate the impact of a potential downturn in power prices in the future. Black Hills Generation significantly reduces its financial exposure in the power generation segment by selling a majority of its unregulated capacity under “tolling” agreements, or agreements under which the power purchaser is responsible for supplying the fuel for the facility, thereby assuming the fuel price risk. The contracted purchasers of capacity and energy from Black Hills Generation’s facilities are load-serving utility companies.

18. BHEP’s oil and gas exploration and production business is involved in the acquisition, exploration, development, and production of crude oil and natural gas. As of December 31, 2006, BHEP held operated and non-operated interests in oil and gas properties in several states in the western United States. BHEP also owns and operates natural gas gathering pipeline systems, along with associated gas compression and treating facilities.

19. Wyodak Resources’ coal mining business mines and processes low-sulfur, sub-bituminous coal at the Wyodak coal mine near Gillette, Wyoming. The Wyodak mine has approximately 55 years of coal reserves at current production levels, and is the oldest continually operating coal mine in Wyoming’s Powder River Basin. The majority of the coal produced at the Wyodak mine is sold to on-site, mine-mouth generation facilities. They include Black Hills Power,

Black Hills Wyoming, and Rocky Mountain Power (formerly known as PacifiCorp). Wyodak Resources is expanding the capability of the Wyodak mine to increase production and provide fuel for Cheyenne Light's base-load, coal-fired power plant, Wygen II, currently under construction. Wygen II will become the fifth mine-mouth, coal-fired power plant to be located at Wyodak Resource's coal mine.

20. Enserco's energy marketing business markets natural gas and crude oil in regions of the United States and Canada. It engages in physical and financial wholesale energy marketing, storage, and transportation services. Enserco also offers price risk management products and services to customers, including natural gas distribution companies, municipalities, industrial users, oil and gas producers, electric utilities, other energy marketers, and retail gas users. Enserco holds, under contract, both short and long-term natural gas storage and transportation capacity on several major pipelines in the western and mid-continent regions of the United States and in Canada. Enserco's operations are conducted in accordance with guidelines established through separate credit and risk management policies and procedures. Enserco maintains a separate credit facility that provides security interests limited to the assets of Enserco. As of December 31, 2006, there were no parent company guarantees for Enserco.

**D. DESCRIPTION OF BLACK HILLS SERVICE COMPANY, LLC**

21. Black Hills maintains a wholly-owned subsidiary that provides centralized services. Black Hills Service Company, LLC ("Black Hills Service") provides such services as accounting, finance, human resources, information technology, risk management, regulatory affairs, governance, legal services, and other corporate services to its affiliated companies in the Black Hills system. Black Hills Service charges its expenses of operation at cost to the Black Hills utility and non-utility

companies through direct charges and allocated charges. Costs that can be specifically attributed to a particular company are directly charged to that company. Costs that cannot be specifically attributed to a particular company, but indirectly support all companies or directly support Black Hills Service, are allocated among the Black Hills companies using an allocation methodology contained in the Black Hills Service Company Cost Accounting Manual (“CAM”). The CAM has been filed with the South Dakota Public Utilities Commission and the Wyoming Public Service Commission. A copy of the current CAM is attached as Schedule 6. Black Hills agrees to file the then current version of the CAM with the Commission on an annual basis.

22. Black Hills Service administers separate money pools: a utility money pool and a non-utility money pool. Black Hills does not borrow from either pool. A non-utility subsidiary can neither borrow from, nor make loans to, the utility money pool, and a utility subsidiary can neither borrow from, nor make loans to, the non-utility money pool. When making intra-company loans or extending intra-company credit, Black Hills and its subsidiaries charge interest rates at the same effective rate of interest as the daily weighted average of commercial paper, revolving credit and/or other short-term borrowings of the respective lending subsidiary, including an allocated share of commitment fees and related expenses.

23. Black Hills Power and Cheyenne Light have authority to make unsecured short-term borrowings from, and contribute surplus funds to, the utility money pool. The funds in the Black Hills utility money pool are comprised of surplus funds in the treasuries of Black Hills, Black Hills Power, and Cheyenne Light, and proceeds from either bank borrowings by those money pool participants, or the sale of commercial paper by the participants for loan to the utility money pool. Money pool funds are made available to Black Hills Power and Cheyenne Light as Black Hills Service determines would

result in a lower cost of borrowing, consistent with the individual borrowing needs and financial standings of the utilities. The determination of whether the utilities at any time have surplus funds to lend to the money pool or will lend funds to the money pool is made by Black Hills' chief financial officer or treasurer, or by their designees, on the basis of cash flow projections and other relevant factors. The utility money pool agreement is on file with the FERC.

24. The non-utility money pool is operated on the same terms and conditions as the utility money pool, except that Black Hills funds made available to the money pools are made available to the utility money pool first and only afterward to the non-utility money pool.

25. In addition, Black Hills' holding company structure insulates its public utility business from its non-utility businesses. Black Hills has expanded this holding company structure to accommodate this transaction by creating Black Hills Utility Holding Company, Inc., a sub-holding company that will own the individual utility subsidiaries created in each state. That sub-holding company may also hold shared assets such as, but not limited to, pipeline transportation, storage, or supply contracts that are allocated to the individual state entities. This structure protects gas supply needed to serve the customers of the individual utility subsidiaries from other Black Hills activities, but permits consolidation of gas supply purchasing and portfolio management. Other shared regulatory assets that may be more economical on a shared rather than individually assigned basis may also be held at the sub-holding company level instead of by the specific state entity. The holding company structure does not permit the depletion of public utility assets or the encumbrance of those assets with non-utility related debt. This structure provides the "improvement" and "integrity" that this Commission's Staff is recommending in the Commission's 701 Docket and in this Commission's

recent ring-fencing and affiliate transactions Docket 06-GIMX-181-GIV ("181 Docket") and is one of the reasons this transaction promotes the public interest.

**E. MANAGEMENT AND EMPLOYEES**

26. Black Hills and its utility subsidiaries have a management team in place with substantial experience in providing reliable utility service to customers.

The team includes:

a. David R. Emery, Black Hills' Chairman, President, and Chief Executive Officer, who has 17 years of experience in various operational and management positions throughout the company.

b. Linden R. Evans, President and Chief Operating Officer for Black Hills' retail business segment, who has been with Black Hills for approximately six years and led Cheyenne Light's successful integration into the Black Hills system in 2005.

c. Thomas M. Ohlmacher, President and Chief Operating Officer of Black Hills Energy, who formerly served the retail business segment and has been with the company for 33 years. He has extensive experience in generation resource development and management.

d. Mark T. Thies, Executive Vice President and Chief Financial Officer, who has been with Black Hills for nine years and has prior experience with InterCoast Energy Company.

e. James M. Mattern, Senior Vice President – Corporate Administration and Compliance, who has 19 years of experience with Black Hills.

f. Kyle D. White, Vice President of Corporate Affairs, who has 24 years of experience with the company.

g. Stuart A. Wevik, Vice President of Operations of the retail business segment, who has 21 years of experience with the company.

h. Roxann R. Basham, Vice President-Governance and Corporate Secretary, who has 23 years of experience with the company.

i. Garner M. Anderson, Vice President, Treasurer and Chief Risk Officer, who has 18 years of experience with the company.

j. Perry S. Krush, Vice President-Controller, who has 18 years of experience with the company.

Attached as Schedule 7 is a chart showing Black Hills' management and organizational structure.

**F. FINANCIAL STRENGTH OF BLACK HILLS**

27. Black Hills and its subsidiaries are financially strong. Black Hills' recently-reported 2006 consolidated financial results showed substantial growth reflecting solid utility performance, improving power generation operations, and strong energy marketing results. Black Hills reported that its retail utilities are in excellent operational and strong financial condition. Black Hills has investment grade ratings from two major rating agencies. Black Hills' credit rating is "Baa3" by Moody's Investors Service and "BBB-" by Standard & Poor's. During the 2001-02 national energy crisis, Black Hills maintained its investment grade credit ratings while continuing its marketing and independent power production businesses. Black Hills' financial strength and stability is further evidenced by the fact that its annual shareholder dividends have been increased each year for the past 37 years. A copy of Black Hills' 2006 Annual Report on Form 10-K to the Securities and Exchange Commission ("SEC") is attached as Schedule 8.

28. Black Hills' Consolidated Statements of Income, Consolidated Balance Sheets, Consolidated Statements of Cash Flows, and Consolidated Statements of Common Stockholders' Equity and Comprehensive Income are included in Schedule 8. The post-transaction pro forma financial information of Black Hills will be filed as Schedule 9 when it becomes available.

29. Black Hills has a conservative management strategy consistent with values rooted in its regulated utility origin. A typical Black Hills shareholder seeks a balance between dividends and earnings growth, which is reflected in Black Hills' corporate philosophy. The acquisition of Aquila's utility assets will significantly add to Black Hills' regulated utility base, and improve the overall balance of its diversified energy assets. Black Hills' diversified non-utility energy businesses engage in relatively conservative transactions compared to other industry participants. Black Hills has an experienced and consolidated power generation team that serves both the utility and non-utility segments. Existing non-regulated generation resources are pledged almost exclusively to long-term supply contracts with utilities that serve captive customers. Black Hills Generation also has energy contracts with other utilities such as PSCo, the Municipal Energy Agency of Nebraska, Southern California Edison, and Nevada Power Company. Black Hills Exploration & Production produces natural gas and crude oil. It employs risk management methods to mitigate commodity price risk and preserve cash flows. These methods and guidelines have been approved by Black Hills' Executive Risk Committee and are reviewed by the Board of Directors. Black Hills Exploration & Production uses a strategy to expand its gas and oil reserves while minimizing risk by focusing on lower-risk exploration and development drilling as well as acquisitions of proven reserves. Substantially all of Wyodak Resources coal production is sold under long-term contracts, including sales to Black Hills' regulated and non-regulated companies. Black Hills continues to construct new coal-fired generation

plants adjacent to the mine, and Wyodak Resources will continue to expand its coal production to meet that coal supply demand. Enserco, Black Hills' natural gas and oil marketing division, has a stand-alone credit facility. Its business focuses on customer service and physical delivery, rather than on speculative financial trades or strategies. It works closely with both customers and producers and emphasizes short-term transactions with over 90 percent of contracts being less than one year in term. Enserco has implemented Black Hills' Risk Policies and Practices and receives oversight from Black Hills' Executive Risk Committee. It also utilizes a strict hedging policy to limit its overall market exposure. Enserco's marketing business has been profitable each of its ten years of operation. As part of Black Hills' system, these non-utility subsidiaries are operated more conservatively than they otherwise might be as stand-alone companies.

### **III. DESCRIPTION OF THE TRANSACTIONS**

#### **A. SUMMARY OF THE TRANSACTIONS**

30. Aquila announced on February 7, 2007, that it had executed a definitive agreement with Black Hills under which Black Hills will acquire Aquila's gas utility assets in Kansas, Iowa, Nebraska, and Colorado and electric utility assets in Colorado. In a separate but related transaction, Merger Sub, a wholly-owned subsidiary of GPE, will merge with and into Aquila, with Aquila as the surviving entity ("Merger"). The result of the Merger is that GPE will effectively acquire Aquila's Missouri electric operations. Among other things, as described more specifically herein: (i) each transaction is conditional upon the closing of the other transaction; (ii) the transactions are subject to regulatory approval; and (iii) the Merger is subject to approval by the shareholders of Aquila and GPE.



**B. ASSET SALE TRANSACTIONS**

31. Black Hills has agreed to acquire from Aquila its natural gas utility assets and businesses in Kansas (106,000 customers), Colorado (64,000 customers), Nebraska (194,000 customers) and Iowa (146,000 customers) and its electric utility assets and business in Colorado (92,000 customers), along with support functions and assets located in Council Bluffs, Iowa, and Omaha and Lincoln, Nebraska, for \$940 million, subject to certain adjustments. Black Hills is assuming the contractual obligations and liabilities of Aquila associated with the assets being acquired.

32. The sale and transfer of Aquila's utility assets to Black Hills, which includes the sale of the Kansas natural gas utility and business assets ("Kansas Assets"), will be effectuated through the following series of transactions:

a. Black Hills has formed Black Hills Utility Holding Company, Inc. ("BH Utility Holding"), a South Dakota corporation, which will hold all of the acquired utility assets, through direct and indirect subsidiaries.

b. Aquila will transfer its gas utility assets in Kansas, Iowa, and Nebraska to Black Hills in accordance with the terms of the Asset Purchase Agreement ("APA"). Attached as Schedule 10 is a copy of the APA as filed with the SEC (i.e., without the exhibits and schedules). The APA has 43 exhibits and schedules which are voluminous, and many of which contain confidential and competitively sensitive business information. Accordingly, a special late filing will be made of the APA exhibits and schedules with appropriate safeguards to protect the confidential information. Black Hills has formed three limited liability companies in those states that will be direct subsidiaries of BH Utility Holding. Black Hills/Kansas Gas Utility Company, LLC, a Kansas limited liability company, will own the

Kansas Assets; Black Hills/Iowa Gas Utility Company, LLC, a Delaware limited liability company, will own the Iowa utility assets; and Black Hills/Nebraska Gas Utility Company, LLC, a Delaware limited liability company, will own the Nebraska utility assets.

c. Immediately before closing, Aquila will transfer its Colorado electric utility assets and its Colorado natural gas utility assets to two Delaware limited partnerships, Electric Opco and Gas Opco, respectively. Aquila will be the General Partner of Electric Opco and Gas Opco, and Aquila Colorado will be the Limited Partner of Electric Opco and Gas Opco.

d. Black Hills has formed Black Hills/Colorado Utility Company, Inc., a Colorado corporation (“BHCU”), and Black Hills/Colorado Utility Company, LLC (“BHCULLC”), a Colorado limited liability company. BHCU, as a general partner, and BHCULLC, as a limited partner, will acquire all of the partnership interests of Aquila and Aquila Colorado in Electric Opco and Gas Opco, in accordance with the terms of a Partnership Interest Purchase Agreement (“PIPA”) dated February 6, 2007. Attached as Schedule 11 is a copy of the PIPA as filed with the SEC (i.e., without the exhibits and schedules). The PIPA has 47 exhibits and schedules which are voluminous, and many of which contain confidential and competitively sensitive business information. Accordingly, a special late filing will be made of the PIPA exhibits and schedules with appropriate safeguards to protect the confidential information.

33. The transactions contemplated by the APA are subject to a number of conditions, including: (i) a waiver from, or the approval of, the Commission under the “standstill” obligations imposed on Aquila in Docket No. 02-UTCG-701-GIG (“701 Docket”); (ii) the approval of the Commission, Iowa Utilities Board, and the Nebraska Public Service Commission; (iii) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976,

as amended; (iv) the ability of GPE and Aquila to complete the Merger, which will require regulatory approval by the Commission, the Missouri Public Service Commission, and the FERC; and (v) the absence of a material adverse effect on the businesses being acquired by Black Hills, including the businesses being acquired by Black Hills under the PIPA.

34. The transactions contemplated by the PIPA are also subject to a number of conditions, including: (i) a waiver from, or the approval of, the Commission under the “standstill” obligations imposed on Aquila in the 701 Docket; (ii) the approval of the Colorado Public Utilities Commission; (iii) the approval of the FERC; (iv) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; (v) the ability of GPE and Aquila to complete the Merger, which will require regulatory approval by the Commission, the Missouri Public Service Commission, and the FERC; and (vi) the absence of a material adverse effect on the businesses being acquired by Black Hills, including the businesses being acquired by Black Hills under the APA.

35. A certified copy of Black Hills’ Board of Directors’ resolution ratifying the APA and authorizing consummation of the transaction contemplated by the APA and this Joint Application, is attached as Schedule 12. A certified copy of Aquila’s Board of Directors’ resolution ratifying the APA and authorizing consummation of the transaction contemplated by the APA and this Joint Application is attached as Schedule 13.

36. Black Hills has entered into an agreement with a group of lenders, including ABN AMRO Bank, as administrative agent, for a committed acquisition credit facility to finance the transaction. Attached as Schedule 14 is a Letter of Commitment from the ABN AMRO Bank. Black Hills expects the permanent financing that will replace the bridge facility to be a combination of

corporate debt, mandatory convertible securities, common equity, and/or internally generated cash resources. The contemplated permanent debt financing is expected to be deemed investment grade by credit rating agencies. Some portion of the transaction financing may be obtained through a public offering or additional private placement of common stock prior to closing.

37. On February 22, 2007, Black Hills completed a private placement offering to certain institutional investors of approximately 4.17 million shares of common stock at a price of \$36.00 per share, for a total of approximately \$150 million. Black Hills used the net proceeds of approximately \$145 million from the offering for debt reduction. Although not directly related to the acquisition, this placement demonstrates Black Hills' ready access to capital, and also enhances its ability to finance and close the acquisition transaction.

### **C. MERGER TRANSACTION**

38. On February 6, 2007, Aquila, GPE, Merger Sub, and Black Hills, entered into an Agreement and Plan of Merger. Following the consummation of the sale and transfer of Aquila's utility assets to Black Hills, Merger Sub will merge with and into Aquila. The Merger will result in GPE acquiring Aquila's two Missouri-based utilities, Missouri Public Service Company, and St. Joseph Light & Power.

39. At the effective time of the Merger, each share of Aquila's common stock (other than shares owned by Aquila and GPE, or by any shareholders who are entitled to and who properly exercise appraisal rights under Delaware law) will be cancelled and will convert into the right to receive (i) 0.0856 of a share of common stock, no par value, of GPE, and (ii) a cash payment of \$1.80. The exchange ratio is fixed and will not be adjusted to reflect stock price changes prior to the completion of the Merger. In the transaction between Aquila and GPE, GPE will acquire all of the

outstanding shares of Aquila and its Missouri-based electric utility assets for \$1.80 in cash plus 0.0856 of a share of GPE's common stock for each share of Aquila common stock in a transaction valued at approximately \$1.7 billion, or \$4.54 per share, based on GPE's closing stock price on February 6, 2007. In addition, GPE will assume approximately \$1 billion of Aquila's net debt. The proceeds from the asset sale to Black Hills will be used to fund the cash portion of the consideration paid to Aquila shareholders and to reduce existing Aquila debt.

40. Upon consummation of the Merger, the shareholders of Aquila and GPE are expected to own approximately 27% and 73%, respectively, of the outstanding common stock of GPE on a fully-diluted basis. Consummation of the Merger is subject to a number of conditions, including: (i) approval by Aquila's shareholders and GPE's shareholders; (ii) approval of the FERC, this Commission, and the Missouri Public Service Commission; (iii) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; (iv) the completion of the asset sale transactions described above; and (v) the absence of a material adverse effect on the Aquila businesses that remain after giving effect to the asset sale transactions.

#### **IV. BLACK HILLS' PLAN OF OPERATION**

41. Aquila furnishes natural gas distribution sales and transportation services to approximately 106,000 retail customers in Kansas. The communities served by the Kansas Assets are listed in attached Schedule 15. The Joint Applicants will mail notice to all of the customers served from the Kansas Assets advising them of the proposed transfer of the Kansas Assets and this Joint Application. A copy of the proposed notice to be sent to all customers will be submitted to the Commission's Staff for its review and comments. Once the notice is approved by the Commission

Staff, it will be mailed to all Aquila retail customers affected by this transaction. Attached as Schedule 16 is a copy of the proposed notice.

42. Upon consummation of the transaction, BH Kansas Gas will adopt Aquila's approved tariff rates and rules and regulations on file with the Commission, which may be changed from time to time with approval from the Commission. BH Kansas Gas will continue to provide natural gas service to Aquila's customers in accordance with such tariff rates and rules and regulations and continue to furnish safe and reliable service and facilities at just and reasonable rates.

43. The Joint Applicants request approval of the transfer of Aquila's Kansas certificates of convenience and necessity and franchises relating to the Kansas Assets to BH Kansas Gas, and correspondingly, BH Kansas Gas requests a certificate to reflect the transfer of the service territory served by the Kansas Assets in the subject territories and to authorize BH Kansas Gas to own and operate the Kansas Assets in the subject territories, in accordance with the tariffs referenced herein, as they may be later amended from time to time as provided by law. The APA contains a list of the franchises Aquila currently holds in the Kansas service territory.

44. Aquila's employees whose expertise and work experience are primarily associated with the Kansas Assets will be offered employment with BH Kansas Gas and no disruptive workforce reductions are contemplated. Aquila, GPE, and Black Hills have established a pre-closing transition team of employees from all three companies to provide for a smooth transition of operations. Black Hills understands fully its commitment to attract, maintain, and support highly qualified employees needed to continue the level of customer service, accounting, billing, and system support currently provided to customers.

45. BH Kansas Gas will operate as a separate subsidiary in Black Hills' holding company structure and will own the Kansas Assets and operate the natural gas utility business in Kansas. Similar separate subsidiaries are being formed by Black Hills to own and operate each acquired utility business in the other states. A chart showing the Black Hills family of companies within the holding company structure, including the utilities to be acquired, is attached as Schedule 17. Black Hills plans to physically segregate the Kansas Assets and liabilities and to assign those to BH Kansas Gas. BH Kansas Gas will maintain separate books and records. The post-transaction pro forma financial balance sheet and income statement of BH Kansas Gas will be filed as Schedule 18 when they become available.

46. BH Kansas Gas will become one of the companies in the Black Hills system. Black Hills Service provides various corporate, administrative, management and support services to those companies in an efficient and economical way and allocates its support costs among them in a fair and equitable manner. Among the services that the various Black Hills state entities will continue to share are the customer call center located in Lincoln, Nebraska, the consolidated gas supply center located in Omaha, Nebraska, and other shared physical assets or consolidated services such as regulatory accounting, billing, meter repair, and other functions. Black Hills will continue to provide those shared services in the same manner they have been provided by Aquila while ensuring safe and reliable service. Black Hills is presently reviewing its options for strengthening its various functions; however, it will likely provide for additional employee talent in its Omaha, Nebraska, natural gas operation headquarters, its Lincoln, Nebraska, call center, and in its Rapid City, South Dakota, headquarters.

47. Black Hills is also reviewing its options on where to place the shared assets and shared services. Regardless of whether the shared assets and services are ultimately located in Black Hills Service or in the Black Hills sub-holding company, BH Kansas Gas will become party to a Service Agreement with Black Hills Service that establishes a reasonable allocation of assets and governs the services and charges for the shared assets or service provided by either the Black Hills sub-holding company or Black Hills Service. A sample of the Service Agreement currently in use within the Black Hills system is attached as Schedule 19. A detailed description of the services provided by Black Hills Service is provided in Appendix 1 to the Service Agreement, and the cost allocation methodology was discussed previously herein. Black Hills will review and adopt agreements to address the reasonable allocation of the other shared assets. Those agreements will continue to allocate the shared assets consistent with existing use, but will need to reflect the transition of those assets from Aquila to Black Hills.

48. As with Black Hills' other utility companies, BH Kansas Gas will be able to participate in the utility money pool, access lower cost capital, and take advantage of the other financial benefits associated with Black Hills' holding company structure.

49. As part of this Joint Application, Black Hills and BH Kansas Gas also agree to comply with the standards for affiliate transactions set forth in K.S.A. 66-1213a, 66-1401 and 66-1402, and any Commission order, rule, or regulation addressing affiliate transactions. Black Hills and BH Kansas Gas will provide the Commission with a list of all documents that they must file with the SEC or the FERC related to shared services. Finally, Black Hills and BH Kansas Gas hereby acknowledge that this Commission has regulatory jurisdiction over the recovery by BH Kansas Gas of the costs for services provided by Black Hills Service to BH Kansas Gas.



50. Black Hills submits to this Commission that it will not lose any jurisdiction over the former gas utility operations by said operations being operated under Black Hills' holding company structure.

**V. THE PROPOSED TRANSACTION WILL PROMOTE  
THE PUBLIC INTEREST**

51. Black Hills' acquisition of Aquila's utility operations in Kansas, Colorado, Nebraska and Iowa, and the combination of those operations with Black Hills' existing utility operations, is a logical extension of Black Hills' business. The two utility operations have similar customer profiles, community demographics and cultures, and business relationships. Acquisition of Aquila's utility operations will make Black Hills a financially stronger company, with a larger regulated retail asset and customer base, and more stable, predictable earnings. A map showing the location of Black Hills' utility operations and Aquila's utility operations in Kansas, Colorado, Nebraska, and Iowa is attached as Schedule 20.

52. Black Hills' acquisition of the Kansas Assets is in the public interest and meets or surpasses the criteria established by this Commission to determine if a merger or acquisition is in the public interest. See, November 15, 1991, KPL/KGE Merger Order Docket Nos. 172,745-U and 174,155-U, pp. 35, 36, for the list of factors that will be considered by the Commission to determine whether the proposed transaction will promote the public interest ("KPL/KGE Merger Case"). The proposed transaction will promote the public interest because Black Hills is qualified by its experience and financial strength to meet all of the demands associated with operating Aquila's Kansas natural gas public utility. Black Hills will work to maintain the existing high quality of service provided to Aquila's customers.

53. Black Hills has a demonstrated record of continuing to make investments in utility infrastructure to ensure reliability, maintaining high levels of service, and taking a proactive approach to managing the supply requirements of its customer base. Black Hills has maintained an active partnership with and dedication to the communities it serves. Black Hills has also demonstrated a respectful and open relationship with regulators.

54. Black Hills and Aquila operate in adjacent states and the customers Aquila serves in the cities of Lawrence and Wichita, Kansas, are comparable in number and type to the customers Black Hills serves in Cheyenne, Wyoming. Like Aquila, Black Hills has experience in serving rural areas and communities. The customer demographics of Black Hills and Aquila are also similar. Most important, Black Hills is offering employment to all of Aquila's field operations and field customer-service employees so that the institutional knowledge of Aquila's distribution system remains intact, ensuring that customers continue to receive safe and reliable service.

55. The financial condition of BH Kansas Gas after the acquisition by Black Hills will be stronger than the current financial condition of the existing utility. Black Hills has an investment grade credit rating, access to lower cost capital, and a solid capital structure. Although Aquila has been working to restore its credit rating to investment grade, its credit rating currently is not investment grade.

56. Black Hills' holding company structure provides significant financial protections to its customers. Black Hills' utility companies are segregated and insulated from the operating costs and liabilities of its non-utility companies. A non-utility Black Hills company cannot borrow from the utility money pool, cannot receive credit from a utility company, nor can it have its debts secured by a utility company's assets.

57. Upon close of the transaction, the Kansas Assets, operations, and activities in Kansas will be owned by a legally separate subsidiary of Black Hills. As indicated recently by this Commission's Staff, the financial benefits of having a diversified public utility form and operating under a holding company structure include: (1) facilitating the ability of the regulator to monitor and prevent, or detect and correct, subsidization of non-utility business ventures; (2) limiting the public utility's exposure to legal liabilities created by non-utility business ventures; and (3) providing for regulatory oversight and control of the regulated public utility's relationship with non-utility business ventures and the parent.

58. Aquila and Black Hills have structured the proposed transaction so as to avoid unnecessary adverse consequences to customers and employees of the utilities. There will be no disruptive workforce reductions associated with the transaction. Black Hills expects to employ Aquila's state-based leadership and operations support staff employees within Kansas, Iowa, Colorado, and Nebraska. In Nebraska, for example, that support staff includes, but is not limited to, the employees located in Omaha's regulatory, gas supply and load monitoring, gas engineering, large volume billing, and information technology departments. In addition to that support staff, Black Hills intends to retain the support staff located in Lincoln for its call center and field resource center, as well as other departments. Black Hills also intends to retain the support staff located at Aquila's meter and measurement shops in Council Bluffs, Iowa. This personnel as well as others will be employed by Black Hills to effectively meet its operations and customer service obligations associated with the Kansas Assets. Black Hills has also purchased the rights to Aquila's current billing and customer data systems along with several other key information technology systems to facilitate the transition of customers from Aquila to Black Hills. Accordingly, Black Hills expects a seamless transition. The

primary purpose of the pre-closing transition team comprised of employees from Aquila, GPE, and Black Hills is to provide for a smooth transition of operations from now until the closing. Black Hills and GPE also entered into a Transition Services Agreement (“TSA”), attached as Schedule 21, designed to address any transition issues that arise post-closing. Some schedules to the TSA are still being perfected. The TSA will ensure, for example, that Black Hills continues to have access to Aquila’s utility business records following the closing. The direct testimony of Linden Evans, submitted with this Joint Application, addresses the transition plan. During its acquisition of Cheyenne Light in early 2005 Black Hills successfully executed a similar transition plan for the retention of employees and maintenance of customer service.

59. Approval of the requested transfer and assignment to BH Kansas Gas of Aquila's applicable certificates with respect to the Kansas Assets, with the resulting abandonment of the certificates issued to Aquila, will promote the public interest by authorizing and ensuring the continuation of the high quality of service to the existing customers served by the Kansas Assets. Black Hills understands what it means to serve utility customers located in rural areas and small towns and will continue to deliver the high quality of service that customers expect and deserve. Black Hills will bring its long history of active partnership and dedication to the local communities that BH Kansas Gas will serve in Kansas. Black Hills, like Aquila, believes strongly in supporting the communities in which it provides utility service and takes part in regional economic and community development through active participation in local organizations. Its employees participate in many civic groups, leadership activities, and local fund-raising efforts. Black Hills plans to continue such efforts to assist the local communities it will serve in Kansas.

60. Given the assurances that Black Hills and BH Kansas Gas have included in this Joint Application, this Commission will retain full jurisdiction over the Kansas gas utility and will have the capacity to effectively regulate and audit the operation of the Kansas Assets by BH Kansas Gas.

61. The proposed transaction between Aquila and Black Hills, along with the transaction between Aquila and GPE, are expected to be beneficial to the shareholders of those companies. The two transactions will forge financially stronger regional utility companies and provide both Black Hills and GPE with a solid foundation for future growth in earnings per share and increased shareholder value. Aquila's shareholders will receive a significant ownership interest in GPE and will once again be part of a dividend paying company.

62. Black Hills is dedicated to providing safe and reliable service to its utility customers and plans to continue those efforts in its ownership and operation of the Kansas Assets. Black Hills has a long history of successfully and continually making investments in its utility infrastructure to ensure reliable service to its utility customers. Black Hills is familiar with the pipeline safety programs that have been implemented by Aquila and will commit to comply with and fulfill all applicable pipeline safety rules, regulations and orders. Black Hills and BH Kansas Gas intend to retain Aquila's current utility company operating personnel in Kansas, Iowa, Nebraska, and Colorado. They are dedicated employees with a strong record of public utility safety.

**VI. ADOPTION OF QUALITY OF SERVICE STANDARD  
REPORTING REQUIREMENTS**

63. In order to assure that Black Hills and BH Kansas Gas will maintain a high level of quality of service to its Kansas natural gas customers, Black Hills and BH Kansas Gas agree to adopt the quality of service standard reporting requirements and provisions relating to those requirements

that are currently in place for Aquila's Kansas natural gas operations. Black Hills and BH Kansas Gas will have the ability to track the information necessary to complete the quarterly quality of service report that Aquila currently files with the Commission in the 701 Docket. A copy of the most recent report is attached as Schedule 22.

## **VII. PURCHASE PRICE AND ANTICIPATED COST REDUCTIONS**

64. As demonstrated by documents recently filed by Aquila with the SEC, Aquila had its investment bankers conduct an analysis to determine the fairness of the consideration to be paid to Aquila's shareholders as a result of the Merger. This documentation is attached as Schedule 23. Black Hills received an opinion as to the fairness of the consideration to be paid for the acquisition, which is introduced by Black Hills witness Mark Thies.

65. The contemplated transaction is an asset acquisition, not a merger. Thus, certain synergies and savings often associated with a merger are not present in this case (e.g., closing of redundant company headquarters, elimination of duplicate employment positions). Nonetheless, important financial benefits will result from the transaction. After closing, Black Hills expects to have a lower allocation of corporate and common administrative costs to the new utility subsidiaries than currently exists. This expectation is based on a preliminary analysis of Aquila's current corporate operating costs. The testimony of Black Hills witness Mark Thies addresses those estimated cost reductions.

## **VIII. ALLOCATION AND RECOVERY OF THE ACQUISITION PREMIUM AND TRANSACTION COSTS**

66. Black Hills will record an acquisition premium for accounting purposes as a result of the proposed transaction. As Black Hills and GPE are still in the process of determining which of the

shared assets will be assigned to Black Hills, a final calculation of the acquisition premium and transaction costs relating to this transaction cannot be finally determined at this time. The estimated amounts of the acquisition premium and transaction costs allocated to the Kansas Assets will be filed as Schedule 24 when they become available.

67. Black Hills' Acquisition Premium and Transaction Cost Recovery Plan will be filed as Schedule 25 when it becomes available.

**IX. IDENTIFICATION OF WITNESSES THAT HAVE DIRECT TESTIMONY  
IN SUPPORT OF THE JOINT APPLICATION**

68. In support of this Joint Application, the following witnesses have prepared and pre-filed direct testimony and exhibits on behalf of Aquila and Black Hills:

a. Richard C. Loomis, Operating Vice President, Kansas and Colorado Gas, and Thomas Fleener, Vice President, Business Development, provide testimony on behalf of Aquila. Mr. Fleener discusses the general parameters of the process that Aquila and its investment bankers conducted in conjunction with Aquila's proposed sale of its Kansas natural gas utility business to Black Hills. Mr. Loomis' testimony describes Aquila's current Kansas operations and affirms that they will continue to be conducted under new ownership just as they have been in the past.

b. The following witnesses provide testimony and exhibits on behalf of Black Hills: Linden R. Evans, President and Chief Operating Officer for Black Hills' retail business segment; Thomas M. Ohlmacher, President and Chief Operating Officer of Black Hills Energy; and Mark T. Thies, Executive Vice President and Chief Financial Officer of Black Hills. Their direct testimony and exhibits include information about Black Hills and its utility

and non-utility subsidiaries and their experience in operating those companies and serving their customers, and describe the assets sales transaction and transition plan. They explain how the transaction will promote the public interest based upon the factors or criteria adopted by the Commission in the KPL/KGE Merger Case, which are applicable to the present transaction, and explain how Black Hills is qualified to own and operate Aquila's natural gas utility businesses, and explain how this transaction meets the public interest standards and criteria established by this Commission. They sponsor the financial information filed with this Joint Application, which demonstrates that Black Hills has the financial capability to operate the utility properties it is acquiring from Aquila. They explain how Black Hills and BH Kansas Gas plan to operate the Kansas gas utility, including an explanation of Black Hills' holding company structure, the benefits of having such a corporate structure and the conditions to which Black Hills is willing to agree with respect to its holding company structure to ensure that this Commission retains jurisdiction. Their testimony includes a discussion of how Black Hills and BH Kansas Gas intend to retain the Aquila employees dedicated to the Kansas gas operations and to adopt Aquila's tariff rates, rules, and regulations. They will also support the Black Hills model showing the cost reductions that Black Hills anticipates achieving as a result of the transaction. Finally, they will testify that Black Hills and BH Kansas Gas propose to adopt the current quality of service reporting requirements to assure that the same high level of service is maintained after the transaction is completed. Black Hills intends to file testimony later that identifies the estimated amount of the acquisition premium and transaction costs, the allocation of the acquisition premium and transaction costs to Kansas, and Black Hills' proposed acquisition premium recovery plan and support for said plan.



WHEREFORE, pursuant to the applicable statutes as set forth herein, Aquila, Black Hills and BH Kansas Gas respectfully request that the Commission issue an appropriate Certificate and Order:


- A. Authorizing, consenting to and approving the transaction contemplated by Aquila, Black Hills and BH Kansas Gas as described herein;
- B. Authorizing Aquila, effective upon consummation of the transaction to discontinue all gas service now furnished by it;
- C. Consenting to and approving the assignment upon consummation of the transaction to BH Kansas Gas of all certificates of public convenience and necessity issued to Aquila in regards to the Kansas Assets as that term is defined herein;
- D. Authorizing BH Kansas Gas to succeed to all of Aquila's rights, title and interests in its natural gas utility plant and facilities as more fully described herein, and to all franchises, certificates, consents, and permits relating to the operation of such plant and facilities;
- E. Authorizing BH Kansas Gas to file as its initial rates, rules and regulations and conditions of service for gas service in the areas now served by the Kansas Assets of Aquila, the rates, rules and regulations and conditions of service of Aquila, applicable thereto and which may be changed from time to time with the approval of the Commission, also authorizing the transfer and assignment from Aquila to BH Kansas Gas all of Aquila's PGA and ACA tariffs, WNA

tariffs, purchased gas cost relating to bad debt adjustment, and any GSRS, and remaining under recovered/over recovered balances, if any;

- F. Authorizing and approving Black Hills' holding company structure subject to the conditions contained herein;
- G. Authorizing and approving Black Hills and BH Kansas Gas' allocation and recovery of the acquisition premium and transaction costs relating to the transaction in accordance with Black Hills and BH Kansas Gas' recovery plan to be submitted as a schedule when it becomes available;
- H. Authorizing and approving Black Hills and BH Kansas Gas' adoption of the quality of service standard reporting requirements currently in place for Aquila's Kansas operations as set forth herein;
- I. Finding that the requested relief will promote the public interest; and
- J. Granting such other relief deemed by the Commission to be just and proper to accomplish the purpose of this Joint Application and to consummate the transaction described herein.

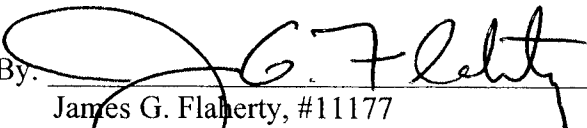
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DATED this 3<sup>rd</sup> day of April, 2007.

By:   
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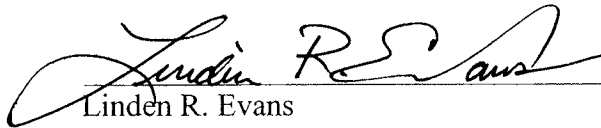
Attorneys for Black Hills Corporation and  
Black Hills/Kansas Gas Utility Company,  
LLC

**VERIFICATION**

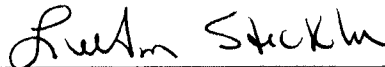
STATE OF SOUTH DAKOTA )  
  )ss:  
COUNTY OF PENNINGTON )

Linden R. Evans, of lawful age, being first duly sworn on oath, states:

That he is the President and Chief Operating Officer for Black Hills' Retail Business Segment, named in the foregoing Joint Application, and is duly authorized to make this affidavit; that he has read the foregoing Joint Application, and knows the contents thereof; and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Linden R. Evans

**SUBSCRIBED AND SWORN** to before me this 3<sup>rd</sup> day of April, 2007.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 06-23-2011

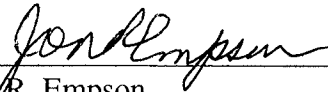


**VERIFICATION**

STATE OF MISSOURI     )  
  )ss:  
COUNTY OF JACKSON    )

Jon R. Empson, of lawful age, being first duly sworn on oath, states:

That he is the Senior Vice President-Regulated Operations for Aquila, Inc., named in the foregoing Joint Application, and is duly authorized to make this affidavit; that he has read the foregoing Joint Application, and knows the contents thereof; and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Jon R. Empson

**SUBSCRIBED AND SWORN** to before me this 27<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

**DEBRA S. BELLVILLE**  
Notary Public - Notary Seal  
**STATE OF MISSOURI**  
Jackson County  
Commission # 06907212  
My Commission Expires: June 28, 2010

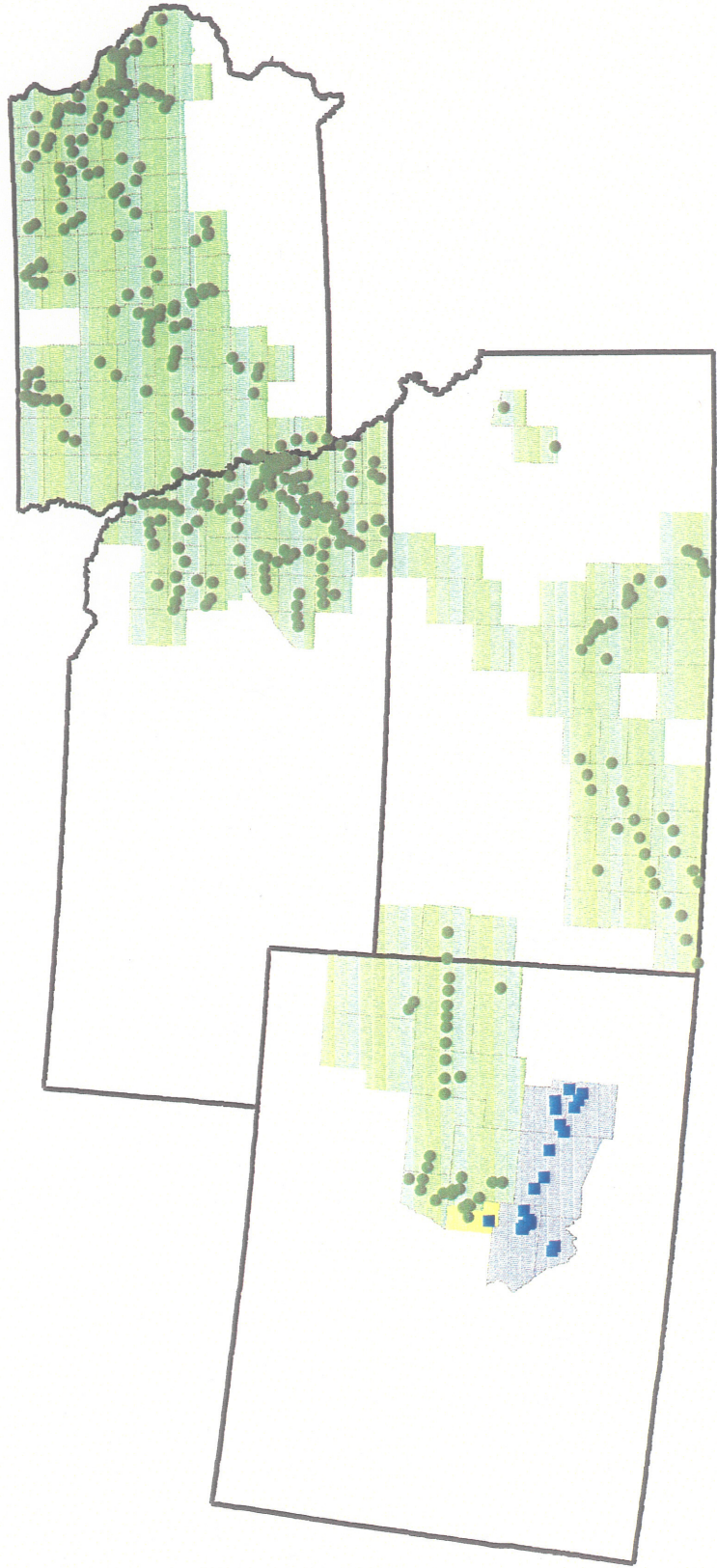
## LIST OF SCHEDULES

1. Service Area of Aquila
2. Black Hills' Current Corporate Organizational Chart
3. Black Hills' Utility Service Area in South Dakota, Wyoming, and Montana
4. Certified Copy of Black Hills' Certificate and Articles of Incorporation and Copy of its Bylaws
5. Certified Copy of Articles of Organization of Black Hills/Kansas Gas Utility Company, LLC, Authorizing it to do Business in Kansas
6. Black Hills Service Company Cost Accounting Manual
7. Black Hills' Management and Organizational Structure
8. Black Hills' 2006 Annual Report on Form 10-K
9. Post-Transaction Pro Forma Financial Information for Black Hills Corporation (to be filed when it becomes available)
10. Asset Purchase Agreement
11. Partnership Interests Purchase Agreement
12. Certified Copy of the Resolution of the Board of Directors of Black Hills Corporation Ratifying the Asset Purchase Agreement and Authorizing Consummation of the Transaction
13. Certified Copy of the Resolution of the Board of Directors of Aquila Ratifying the Asset Purchase Agreement and Authorizing Consummation of the Transaction
14. Letter of Commitment from the ABN AMRO Bank
15. List of the Communities Served by the Kansas Assets
16. Proposed Notice to Kansas Customers
17. Black Hills' Corporate Organizational Chart including the Utilities to be Acquired

18. Pro Forma Financial Information for BH Kansas Gas (to be filed when it becomes available)
19. Sample Service Agreement Within the Black Hills System
20. Map Showing the Location of Black Hills' Utility Operations and Aquila's Utility Operations in Kansas, Colorado, Nebraska and Iowa
21. Transition Services Agreement
22. Most Recent Aquila Quality of Service Report
23. Aquila's SEC Filings Supporting the Purchase Price
24. Estimated Acquisition Premium and Transaction Costs for Kansas Assets (to be filed when it becomes available)
25. Acquisition Premium and Transaction Costs Recovery Plan (to be filed when it becomes available)

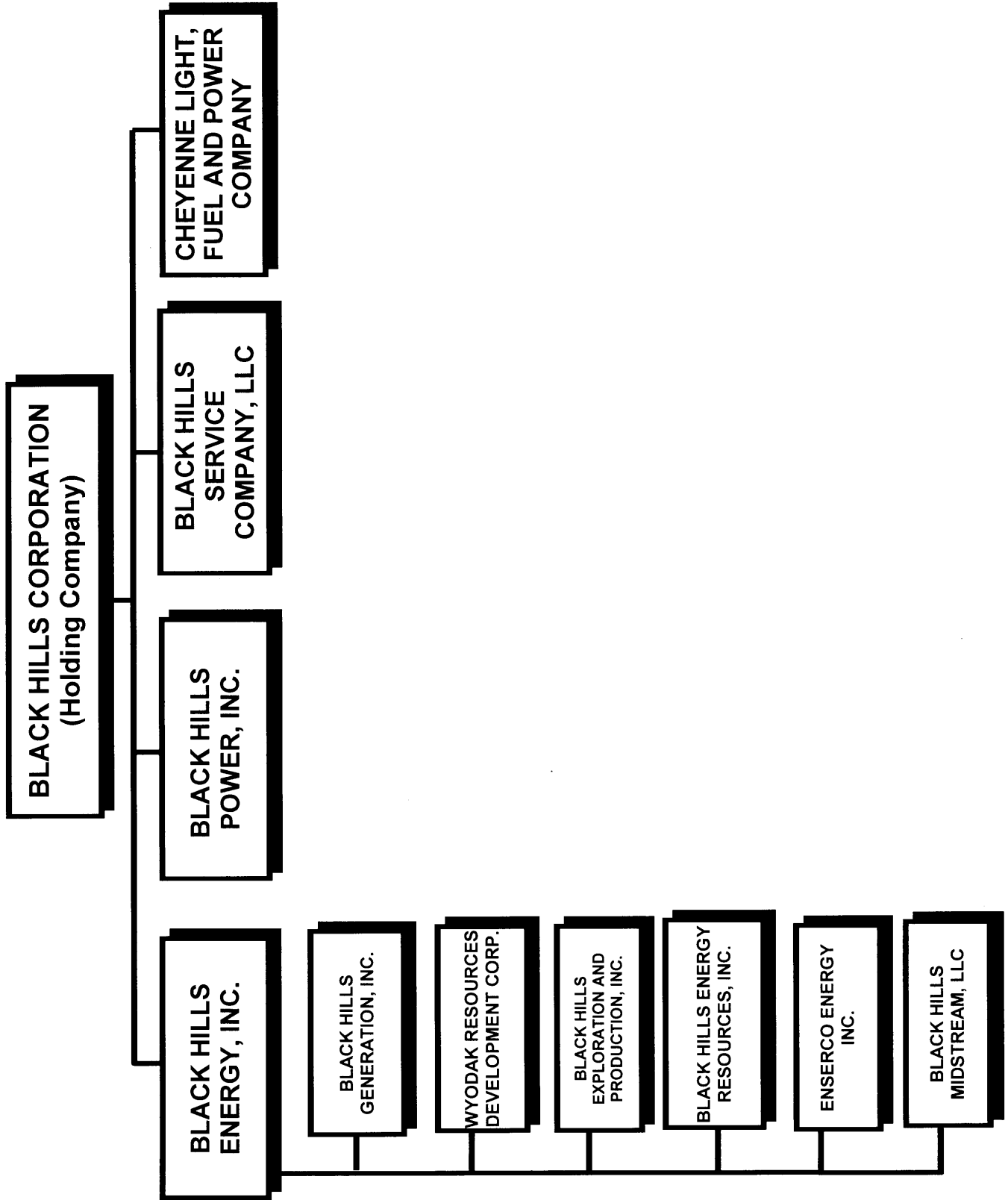
# Aquila Service Territories in Transaction

- Gas towns
  - Electric Towns
- Counties
- ELECTRIC
  - ELECTRIC AND GAS
  - GAS
  - NONE



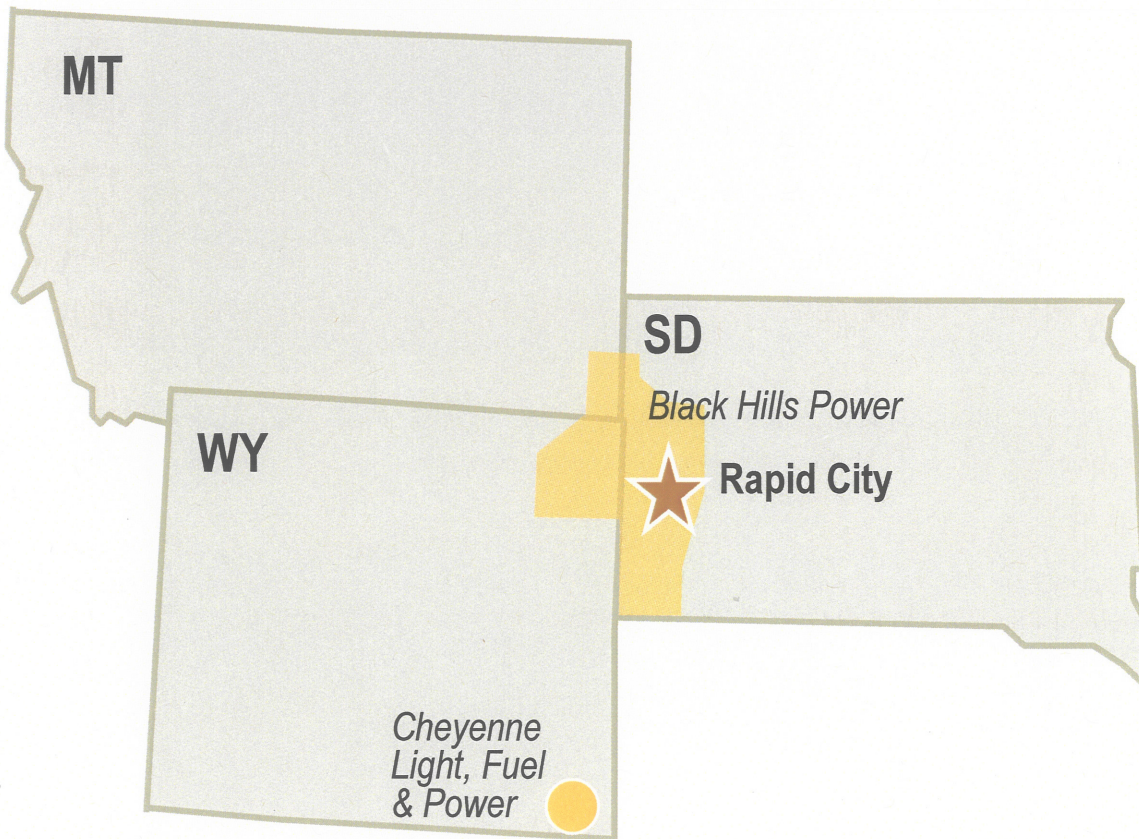


# BLACK HILLS CORPORATION ORGANIZATIONAL CHART





# Black Hills Corporation Utility Service Area



# State of South Dakota

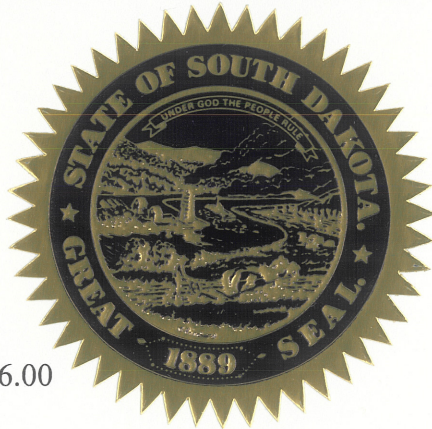


## OFFICE OF THE SECRETARY OF STATE

### Department of State

United States of America,	}	
	}	Secretary's Office
State of South Dakota	}	

This is to certify that the attached instrument of writing is a true, correct and examined copy of the **Articles of Incorporation and all amendments for BLACK HILLS CORPORATION** filed in this office on **April 28, 2000 until present.**



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of South Dakota at the city of Pierre, the capital, on March 23, 2007.

*Chris Nelson*

**Chris Nelson  
Secretary of State**

Fees, \$ 56.00

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# State of South Dakota

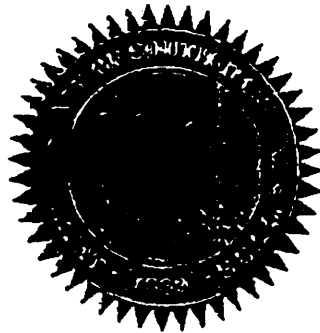


## OFFICE OF THE SECRETARY OF STATE Certificate of Incorporation Business Corporation

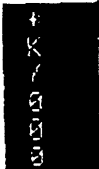
I, **JOYCE HAZELTINE**, Secretary of State of the State of South Dakota, hereby certify that the Articles of Incorporation of **BLACK HILLS HOLDING CORPORATION** duly signed and verified, pursuant to the provisions of the South Dakota Business Corporation Act, have been received in this office and are found to conform to law.

**ACCORDINGLY**, and by virtue of the authority vested in me by law, I hereby issue this Certificate of Incorporation and attach hereto a duplicate of the Articles of Incorporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this April 28, 2000.



Joyce Hazeltine  
Secretary of State



Filed this 28<sup>th</sup> day of April 2010  
*[Signature]*  
Executed by the undersigned for the purpose of forming a South Dakota business corporation under Chapter 47 of SDCL.

0005300.1129  
5/10/00

ARTICLES OF INCORPORATION  
OF  
BLACK HILLS HOLDING CORPORATION

RECEIVED  
APR 28 2010  
S.D. SEC. OF STATE

ARTICLE I.

The name of the Corporation is Black Hills Holding Corporation.

ARTICLE II.

The period of existence is perpetual.

ARTICLE III.

The purposes for which this Corporation is organized include, without limitation, to acquire, hold, purchase, sell, assign, transfer, exchange, mortgage, pledge, or otherwise dispose of shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by, any other corporation of the state of South Dakota, or any other state, and, while the owner of such stock, to exercise all the rights, powers and privileges of ownership, including the right to vote thereon; to enter into plans of merger, consolidation, or exchange with any other corporation of the state of South Dakota or any other state; to aid in any manner any corporation or association, any shares of stock of which, or any bonds, debentures, notes, securities, evidences of indebtedness, contracts, or obligations of which, are held by or for the Corporation, or in which, or in the welfare of which, the Corporation shall have any interest; to do any acts designed to protect, preserve, improve or enhance the value of any property at any time held or controlled by the Corporation, or in which it may be at any time interested; to organize, promote, or facilitate the organization of subsidiary companies; to purchase, hold, sell and transfer shares of its own capital stock in the manner and to the extent provided by any law, rule or regulation; and to generally engage in any lawful act or activity and to enjoy and exercise all the rights, powers and privileges which are now or may hereafter be conferred upon corporations organized under the laws of the state of South Dakota. The foregoing clauses shall be construed both as objects and powers, and it is hereby expressly provided that the above enumeration of specific purposes and powers shall not be held to limit or restrict in any manner the purposes and powers of the Corporation, but is in furtherance of and in addition to the general powers conferred by the laws of the state of South Dakota.

ARTICLE IV.

The amount of total authorized capital stock of the Corporation is 125,000,000 shares consisting of:

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- A. 100,000,000 shares of Common Stock, having a par value of \$1 per share;  
and
- B. 25,000,000 shares of Preferred Stock, without par value.

ARTICLE V.

A. Each holder of Common Stock shall at every meeting of the shareholders be entitled to one vote for each share of Common Stock held by him.

B. The Board of Directors of the Corporation is authorized, subject to limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a statement pursuant to the applicable law of the state of South Dakota, to establish from time to time the number of shares to be included in such series, and to fix the designations, powers, preferences and rights of the shares of each such series and the qualifications, limitations, and restrictions thereof.

The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

- 1) The number of shares constituting that series and the distinctive designation of that series;
- 2) The dividend rate on the shares of that series, whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on the shares of that series;
- 3) Whether that series shall have voting rights, in addition to any voting rights provided by law, and if so, the terms of such voting rights, including, but not limited to, rights to elect a specified number of Directors in the event that dividends, if any, on Preferred Stock, remain unpaid for a specified period of time;
- 4) Whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provisions for adjustment of the conversion rate in such events as the Board of Directors shall determine;
- 5) Whether or not the shares of that series will be redeemable, and, if so, the terms and conditions of such redemption, including the date or date upon or after which they shall be redeemable, and the amount per share payable

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in case of redemption, which amount may vary under different conditions and at different redemption dates;

- 6) Whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking fund;
- 7) The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution, or winding up of the corporation, and the relative rights of priority, if any, of payment of shares of that series;
- 8) Any other relative rights, preferences, and limitations of that series.

Dividends on outstanding shares of Preferred Stock shall be paid or declared and set apart for payment before any dividends shall be paid or declared and set apart for payment on the Common Stock with respect to the same dividend period.

If upon any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation, the assets available for distribution to holders of shares of Preferred Stock of all series shall be insufficient to pay such holders the full preferential amount to which they are entitled, then such assets shall be distributed ratably among the shares of all series of Preferred Stock in accordance with the respective preferential amounts (including unpaid cumulative dividends, if any) payable with respect thereto.

C. Neither the holders of the Common Stock nor the holders of any Preferred Stock shall have any preemptive rights to subscribe to any issue of stock or other securities of any class of the Corporation.

#### ARTICLE VI.

The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, the number of which shall not be less than nine; provided, (i) the Board of Directors may change the number of Directors by amendments to its bylaws, and (ii) whenever the holders of any one or more series of Preferred Stock shall have the right, voting separately as a class, to elect one or more Directors of the Corporation, the number of Directors shall be increased to the extent necessary to give effect to such voting rights.

The Board of Directors shall be and is divided into three classes: Class I, Class II, and Class III, which shall be as nearly equal in number as possible, with the term of office of one class expiring each year. At the annual meeting of shareholders in 2000, Directors of the first class shall be elected to hold office for a term expiring at the next succeeding annual meeting; Directors of the second class shall be elected to hold office for a term expiring at the second



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succeeding annual meeting; and Directors of the third class shall be elected to hold office for a term expiring at the third succeeding annual meeting.

Any vacancies in the Board of Directors, for any reason, including any newly created directorships resulting from any increase in the number of Directors may be filled by the Board of Directors, acting by a majority of the directors then in office, although less than a quorum, and any Director so chosen shall hold office until the next election of the class for which such Director shall have been chosen.

The Board of Directors is expressly authorized to determine the rights, powers, duties, rules and procedures that affect the power of the Board of Directors to manage and direct the business and affairs of the corporation, including the power to designate and empower the committees of the Board of Directors, to elect, appoint and empower the officers and other agents of the corporation, and to determine the time and place of, and the notice requirements for, Board meetings as well as quorum and voting requirements for, and the manner of taking, Board action.

Each Director shall serve for a term continuing until the annual meeting of shareholders at which the term of the class to which he was elected expires and until his successor is elected and qualified or until his or her earlier death, resignation or removal; except a Director may be removed from office prior to the expiration of his or her term only for cause and by a vote of the majority of the total number of members of the Board of Directors without including the Director who is the subject of the removal determination and without such Director being entitled to vote thereon.

Notwithstanding anything contained in this Articles to the contrary, the affirmative vote or concurrence of the holders of at least 80 percent of the Common Stock entitled to vote thereon and 66 2/3 percent of the Preferred Stock entitled to vote thereon shall be required to alter, amend, or repeal this Article VI.

ARTICLE VII.

A. In addition to any other approvals and voting requirements mandated by law and other provisions of these Articles of Incorporation, the affirmative vote of the holders of not less than eighty percent (80%) of the outstanding shares of "Voting Stock" (as hereinafter defined) of this Corporation (the "Company") shall be required for the approval or authorization of any "Business Transaction" (as hereinafter defined) with any "Related Person" (as hereinafter defined) or any Business Transaction in which a Related Person has an interest (except proportionately as a shareholder of the Company); provided, the eighty percent (80%) voting requirement shall not be applicable if either:

- 1) the "Continuing Directors" (as hereinafter defined) of the Company by at least a majority vote thereof (a) have expressly approved in advance the acquisition of the





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outstanding shares of Voting Stock that caused such Related Person to become a Related Person, or (b) have expressly approved such Business Transaction; or

2) all of the following conditions (a), (b) and (c) shall have been met:

(a) the cash or fair market value (as determined by at least a majority of the Continuing Directors) of the property, securities or other consideration to be received per share by holders of Voting Stock of the Company (other than the Related Person) in the Business Transaction is not less than the "Highest Purchase Price" or the "Highest Equivalent Price" (as those terms are hereinafter defined) paid by the Related Person involved in the Business Transaction in acquiring any of its holdings of the Company's Voting Stock;

(b) the ratio of:

(w) the aggregate amount of the cash and the fair market value or other consideration to be received per share by holders of Common Stock in such Business Transaction, to

(x) the market price of the Common Stock immediately prior to the announcement of such Business Transaction.

is at least as great as the ratio of:

(y) the highest per share price (including brokerage commissions, transfer taxes and soliciting dealers' fees) which the Related Person involved in such Business Transaction has theretofore paid for any shares of Common Stock acquired by it, to

(z) the market price of the Common Stock immediately prior to the initial acquisition by such Related Person of any Common Stock; and

(c) the consideration to be received by holders of each class of capital stock in such Business Transaction shall be the same form and of the same kind as the consideration paid by the Related Person in acquiring the shares of that class of capital stock already owned by it.

B. For purposes of this Article VII:

1) The term "Business Transaction" shall include, without limitation, (a) any merger, consolidation or plan of exchange of the Company, or any entity controlled by or under common control with the Company, with or into any Related Person, or any entity controlled by or under common control with such

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Related Person, (b) any merger, consolidation or plan of exchange of a Related Person, or any entity controlled by or under common control with such Related Person, with or into the Company or any entity controlled by or under common control with the Company, (c) any sale, lease, exchange, transfer or other disposition (in one transaction or a series of transactions), including without limitation a mortgage or any other security device, of all or any "Substantial Part" (as hereinafter defined) of the property and assets of the Company, or any entity controlled by or under common control with the Company, to a Related Person, or any entity controlled by or under common control with such Related Person, (d) any purchase, lease, exchange, transfer or other acquisition (in one transaction or a series of transactions), including, without limitation, a mortgage or any other security device, of all or any Substantial Part of the property and assets of a Related Person or any entity controlled by or under common control with such Related Person, by the Company or any entity controlled by or under common control with the Company, (e) any recapitalization of the Company that would have the effect of increasing the voting power of a Related Person, (f) the issuance, sale, exchange or other disposition of any securities of the Company, or of any entity controlled by or under common control with the Company, by the Company or by any entity controlled by or under common control with the Company, (g) any liquidation, spin-off, split-off, split-up or dissolution of the Company, and (h) any agreement, contract or other arrangement providing for any of the transactions described in this definition of Business Transaction.

2) The term "Related Person" shall mean and include (a) any individual, corporation, association, trust, partnership or other person or entity (a "Person") which, together with its "Affiliates" (as hereinafter defined) and "Associates" (as hereinafter defined), "Beneficially Owns" (as defined in Rule 13d-3 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect at March 27, 1986) in the aggregate ten percent (10%) or more of the outstanding Voting Stock of the Company, and (b) any Affiliate or Associate (other than the Company or a subsidiary of the Company of which the Company owns, directly or indirectly, more than eighty percent (80%) of the voting stock) of any such Person. Two or more Persons acting in concert for the purpose of acquiring, holding or disposing of Voting Stock of the Company shall be deemed a "Person."

3) Without limitation, any share of Voting Stock of the Company that any Related Person has the right to acquire at any time (notwithstanding that Rule 13d-3 deems such shares to be beneficially owned only if such right may be exercised within 60 days) pursuant to any agreement, contract, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise, shall be deemed to be Beneficially Owned by such Related Person and to be outstanding for purposes of clause B(2) above.

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4) For the purposes of subparagraph (2) of paragraph A. of this Article VII, the term "other consideration to be received" shall include, without limitation, Common Stock or other capital stock of the Company retained by its existing stockholders, other than any Related Person or other Person who is a party to such Business Transaction, in the event of a Business Transaction in which the Company is the survivor.

5) The term "Voting Stock" shall mean all of the outstanding shares of capital stock of the Company entitled to vote generally in the election of Directors, considered as one class, and each reference to a proportion of shares of Voting Stock shall refer to such proportion of the votes entitled to be cast by such shares.

6) The term "Continuing Director" shall mean any member of the Board of Directors of the Company (the "Board") who is unaffiliated with, and not a nominee of, the Related Person involved in a Business Transaction and was a member of the Board prior to the time that the Related Person became a Related Person and any successor of a Continuing Director who is unaffiliated with, not a nominee of, the Related Person and is designated to succeed a Continuing Director by a majority of Continuing Directors then on the Board.

7) A Related Person shall be deemed to have acquired a share of the Voting Stock of the Company at the time when such Related Person became the Beneficial Owner thereof. With respect to the shares owned by Affiliates, Associates or other Persons whose ownership is attributed to a Related Person under the foregoing definition of Related Person, if the price paid by such Related Person for such shares is not determinable by a majority of the Continuing Directors, the price so paid shall be deemed to be the higher of (a) the price paid upon the acquisition thereof by the Affiliate, Associate or other Person or (b) the market price of the shares in question at the time when such Related Person became the Beneficial Owner thereof.

8) The terms "Highest Purchase Price" and "Highest Equivalent Price" as used in this Article VII shall mean the following: If there is only one class of capital stock of the Company issued and outstanding, the Highest Purchase Price shall mean the highest price that can be determined to have been paid at any time by the Related Person involved in the Business Transaction for any share or shares of that class of capital stock. If there is more than one class of capital stock of the Company issued and outstanding, the Highest Equivalent Price shall mean, with respect to each class and series of capital stock of the Company, the amount determined by a majority of the Continuing Directors, on whatever basis they believe is appropriate, to be the highest per share price equivalent to the highest price that can be determined to have been paid at any time by the Related Person for any share or shares of any class or series of capital stock of the Company. The Highest Purchase Price and the Highest Equivalent Price shall include any brokerage commissions, transfer taxes and soliciting dealers' fees paid by a Related Person with respect to the shares of capital stock of the Company acquired by such Related Person. In

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the case of any Business Transaction with a Related Person, the Continuing Directors shall determine the Highest Purchase Price or the Highest Equivalent Price for each class and series of the capital stock of the Company. The Highest Purchase Price and Highest Equivalent Price shall be appropriately adjusted to reflect the occurrence of any reclassification, recapitalization, stock split, reverse stock split or other readjustment in the number of outstanding shares of capital stock of the Company, or the declaration of a stock dividend thereon, between the last date upon which the Related Party paid the Highest Purchase Price or Highest Equivalent Price and the effective date of the merger or consolidation or the date of distribution to stockholders of the Company of the proceeds from the sale of all or substantially all of the assets of the Company.

9) The term "Substantial Part" shall mean ten percent (10%) or more of the fair market value of the total assets of the Person in question, as reflected on the most recent balance sheet of such Person existing at the time the stockholders of the Company would be required to approve or authorize the Business Transaction involving the assets constituting any such Substantial Part.

10) The term "Affiliate," used to indicate a relationship with a specified Person, shall mean a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

11) The term "Associate," used to indicate a relationship with a specified Person, shall mean (a) any entity of which such specified Person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (b) any trust or other estate in which such specified Person has a substantial beneficial interest or as to which such specified Person serves as trustee or in a similar fiduciary capacity, (c) any relative or spouse of such specified Person, or any relative of such spouse, who has the same home as such specified Person or who is a Director or officer of the Company or any of its subsidiaries, and (d) any Person who is a Director or officer of such specified Person or any of its parents or subsidiaries (other than the Company or an entity controlled by or under common control with the Company).

12) The term "subsidiary," when used to indicate a relationship with a specified Person, shall mean an Affiliate controlled by such Person directly, or indirectly through one or more intermediaries.

C. For the purposes of this Article VII, a majority of the Continuing Directors shall have the power to make a good faith determination, on the basis of information known to them, of: 1) the number of shares of Voting Stock that any Person Beneficially Owns, 2) whether a Person is an Affiliate or Associate of another, 3) whether a Person has an agreement, contract, arrangement or understanding with another or some other right as to the matters referred to in

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subparagraph B(1)(h) or B(3) hereof, 4) whether the assets subject to any Business Transaction constitute a Substantial Part, 5) whether any Business Transaction is one in which a Related Person has an interest (except proportionately as a shareholder of the Company), 6) the date of the initial acquisition of Common Stock by a Related Person, 7) whether the consideration to be received is in the same form as to the matter referred to in subparagraph A(2)(c), and 8) such other matters with respect to which a determination is required under this Article VII.

D. The provisions set forth in this Article VII may not be amended, altered, changed or repealed in any respect unless such action is approved by the affirmative vote of the holders of not less than eighty percent (80%) of the outstanding shares of Voting Stock of the Company.

ARTICLE VIII.

The Corporation will not commence business until consideration of the value of at least \$1,000 has been received for issuance of shares.

ARTICLE IX.

The complete address, including the street address of the Corporation's registered office is 625 Ninth Street, Rapid City, South Dakota 57701, and the name of its registered agent at such address is Roxann R. Basham.

ARTICLE X.

The number of Directors constituting the initial Board of Directors is one and the name and address of the persons who is to serve as initial Director:

NAME	ADDRESS
Roxann R. Basham	625 Ninth Street, 4 <sup>th</sup> floor P. O. Box 1400 Rapid City, SD 57709-1400

ARTICLE XI.

The name and address of the incorporator is:

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NAME

ADDRESS

Roxann R. Basham

625 Ninth Street, 4<sup>th</sup> floor  
P. O. Box 1400  
Rapid City, SD 57709-1400

ARTICLE XII.

Except as otherwise expressly provided by the laws of the State of South Dakota, the following additional provisions are inserted for the regulation of the business and for the conduct of the affairs of this Corporation and its Directors and shareholders:

A. No contract or other transaction between this Corporation and any other corporation shall be void or voidable because of the fact that Directors of this Corporation are Directors of such other corporation, if such contract or transaction shall be approved or ratified by the affirmative vote of a majority of the Directors present at a meeting of the Board of Directors, who are not so interested. Any Director individually, or any firm of which any Director is a partner, may be a party to or may be interested in any contract or transaction of this Corporation provided that such contract or transaction shall be approved or ratified by the affirmative vote of at least a majority of the Directors present at a meeting of the Board of Directors, who are not so interested, nor shall any Director be liable to account to this Corporation for any profit realized by him from or through any such transaction or contract of this Corporation, ratified or approved as aforesaid, by reason of his interest in such transaction or contract. Directors so interested may be counted when present at meetings of the Board of Directors for the purpose of determining the existence of a quorum.

B. The Board of Directors, in addition to the powers and authority expressly conferred upon it hereinbefore and by statute and by the Bylaws, is hereby empowered to exercise all such powers as may be exercised by the Corporation; subject, nevertheless, to the provisions of the laws of the State of South Dakota and of these Articles of Incorporation.

C. To the fullest extent permitted by South Dakota law governing this Corporation as the same exists or may hereafter be amended, a Director of this Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any violation of §§ 47-5-15 to 47-5-19, inclusive, of the South Dakota Codified Laws, or (iv) for any transaction from which the Director derived an improper personal benefit.

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D. The provisions of South Dakota Codified Laws §§ 47-33-8 through 47-33-16, inclusive, do not apply to control share acquisitions (as defined by South Dakota Codified Laws § 47-33-3(1)) of shares of this Corporation.

Dated this 27<sup>th</sup> day of April, 2000.

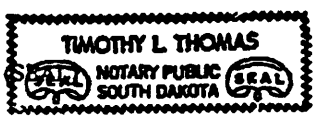
  
\_\_\_\_\_  
ROXANN R. BASHAM

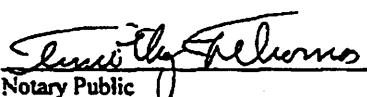
STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On this 27<sup>th</sup> day of April, 2000, before me, the undersigned officer, appeared Roxann R. Basham, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and she acknowledged to me that she executed the same for the purposes contained therein.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



  
Notary Public

My Commission Expires  
August 3, 2000

CONSENT OF REGISTERED AGENT

I, Roxann R. Basham, hereby give my consent to serve as the registered agent for Black Hills Holding Corporation.

Dated April 27, 2000.

  
\_\_\_\_\_  
Roxann R. Basham

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5/10/00

Receipt Number: 8793570

File Number DB042740

ART OF INC

For

**BLACK HILLS HOLDING CORPORATION**

Filed at the request of:

MORRILL THOMAS NOONEY & BRAUN  
TIMOTHY THOMAS  
PO BOX 8108  
RAPID CITY SD 57709

*State of South Dakota*  
*Office of the Secretary of State*

Filed in the office of the Secretary of State on: Friday, April 28, 2000

  
Secretary of State

Fee Received: \$16,000



# State of South Dakota



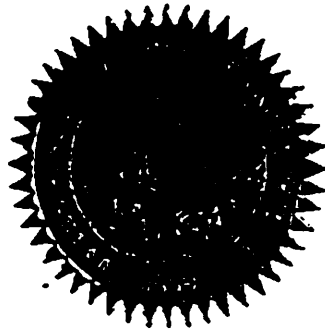
OFFICE OF THE SECRETARY OF STATE

## Certificate of Amendment

I, **JOYCE HAZELTINE**, Secretary of State of the State of South Dakota, hereby certify that duplicate of the Articles of Amendment to the Articles of Incorporation of **BLACK HILLS HOLDING CORPORATION** changing its name to **BLACK HILLS CORPORATION** duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Amendment to the Articles of Incorporation and attach hereto a duplicate of the Articles of Amendment.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this December 22, 2000.



Handwritten signature of Joyce Hazeltine in cursive script.

Joyce Hazeltine  
Secretary of State

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DEC 22 2001

ARTICLES OF AMENDMENT TO THE  
ARTICLES OF INCORPORATION OF  
BLACK HILLS HOLDING CORPORATION

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S.D. SEC. OF STATE

The undersigned do hereby execute, acknowledge, and deliver to the Secretary of State of South Dakota the following Articles of Amendment:

1. The name of the corporation is Black Hills Holding Corporation.
2. The following amendment was adopted by the shareholders of the Corporation on June 20, 2000:

Article I of the Articles of Incorporation is hereby amended to read as follows:

The name of the Corporation is Black Hills Corporation.

3. The number of shares of the Corporation outstanding at the time of such adoption was 100, and the number of shares entitled to vote thereon was 100.
4. The number of shares voted for such amendment was 100. The number of shares voted against this amendment was 0.

IN WITNESS WHEREOF, these Articles of Amendment to the Articles of Incorporation of Black Hills Holding Corporation were executed on this 22nd day of December, 2000.

BLACK HILLS HOLDING CORPORATION

By James M. Matern  
James M. Matern  
Its Senior Vice President - Corporate  
Administration

And Roxann R. Basham  
Roxann R. Basham  
Its Vice President - Controller and Corporate  
Secretary

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STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 22nd day of December, 2000, before me, the undersigned officer, personally appeared James M. Mattern and Roxann R. Basham, who acknowledged themselves to be the Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, respectively, of Black Hills Holding Corporation, a corporation, and that they, as such Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Paul R. Lingle  
Notary Public  
My Commission Expires 9/9/05

(SEAL)

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Receipt Number: 738935  
File Number DB042740

**AMENDMENT**

For

**BLACK HILLS HOLDING CORPORATION** changing its name to **BLACK HILLS CORPORATION**

Filed at the request of:

Morrill Thomas Nooney & Braun  
Box 8108  
Rapid City SD 57709

*State of South Dakota*  
*Office of the Secretary of State*

Filed in the office of the Secretary of State on: Friday, December 22, 2000

  
Secretary of State

Fee Received. \$20

*22nd Dec 2000*

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S.D. SEC. OF STATE

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STATEMENT OF DESIGNATIONS, PREFERENCES  
AND RELATIVE RIGHTS AND LIMITATIONS  
OF  
NO PAR PREFERRED STOCK, SERIES 2000-A  
OF  
BLACK HILLS CORPORATION  
(formerly Black Hills Holding Corporation)

Pursuant to Section 47-3-7  
of the South Dakota Codified Laws

Black Hills Corporation, a corporation organized and existing under the South Dakota Codified Laws, does hereby certify that pursuant to the provisions of Section 47-3-7 of the South Dakota Codified Laws, and the provisions of its Articles of Incorporation, its Board of Directors, at a meeting held on December 12, 2000, duly adopted the following resolution establishing the rights, preferences, privileges and restrictions of a series of preferred stock, having no par value, of the corporation which resolution remains in full force and effect as of the date hereof:

"WHEREAS, the Board of Directors of Black Hills Corporation (the "Corporation") is authorized, within the limitations and restrictions stated in its Articles of Incorporation (the "Articles of Incorporation"), to fix from time to time by resolution or resolutions adopted prior to the issuance of any shares of each particular series of preferred stock, having no par value (the "No Par Preferred Stock"), the number of shares constituting that series and the distinctive designation of that series; the dividend rate on the shares of that series, whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on the shares of that series; whether that series shall have voting rights, in addition to any voting rights provided by law, and if so, the terms of such voting rights, including, but not limited to, rights to elect a specified number of Directors in the event that dividends, if any, on Preferred Stock, remain unpaid for a specified period of time; whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provisions for adjustment of the conversion rate in such events as the Board of Directors shall determine; whether or not the shares of that series will be redeemable, and, if so, the terms and conditions of such redemption, including the date or date upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates; whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking fund; the rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution, or winding up of the corporation, and the relative rights of priority, if any, of payment of shares of that series; any other relative rights, preferences, and

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limitations of that series, not inconsistent with the provisions of Article Five of the Articles of Incorporation applicable to all series; and

WHEREAS, it is the desire of the Board of Directors of the Corporation, pursuant to its authority as aforesaid, to authorize the issuance, and to designate and fix the terms of a series of No Par Preferred Stock and the number of shares constituting such series;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Article Five of the Articles of Incorporation, there is hereby authorized such series of No Par Preferred Stock on the terms and with the provisions herein set forth:

1. Certain Definitions.

Unless the context otherwise requires, the terms defined in this Section 1 shall have, for all purposes of this resolution, the meanings specified (with terms defined in the singular having comparable meanings when used in the plural). Capitalized terms used herein which are not otherwise defined shall have the meanings ascribed thereto in the Articles of Incorporation.

Automatic Conversion Date. The term "Automatic Conversion Date" shall have the meaning set forth in Section 8(a)(ii) below.

Common Stock. The term "Common Stock" shall mean the common stock, par value \$1.00 per share, of the Corporation.

Common Stock Dividend Payment Date. The term "Common Stock Dividend Payment Date" shall have the meaning set forth in Section 4(a) below.

Conversion Date. The term "Conversion Date" shall have the meaning set forth in Section 8(c) below.

Conversion Price. The term "Conversion Price" shall have the meaning set forth in Section 8(d) below.

Convertible Securities. The term "Convertible Securities" shall have the meaning set forth in Section 8(e)(iii) below.

Current Market Price. The term "Current Market Price" shall mean the current market price of the Common Stock as computed in accordance with Section 8(c)(xi) below.

Initial Issue Date. The term "Initial Issue Date" shall mean the date that shares of No Par Preferred Stock, Series 2000-A are first issued by the Corporation.

Liquidation. The term "Liquidation" shall mean any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary; provided, that neither the voluntary sale, conveyance, lease, exchange or transfer (for cash, shares of stock,

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securities or other consideration) of all or substantially all of the property or assets of the Corporation, nor the consolidation or merger of the Corporation with one or more other entities, shall, by itself, be deemed a Liquidation.

Liquidation Preference Amount. The term "Liquidation Preference Amount" shall mean an amount equal to the sum of (i) \$1,000 per share of No Par Preferred Stock, Series 2000-A, plus (ii) all accrued and unpaid dividends thereon calculated in accordance with Sections 4(a) and 4(b) hereof.

No Par Preferred Stock, Series 2000-A. The term "No Par Preferred Stock, Series 2000-A", shall mean the series of No Par Preferred Stock authorized hereby.

Person. The term "Person" shall mean an individual or a corporation, limited liability company, partnership, trust, or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

Post-Redemption Record Date. The term "Post-Redemption Record Date" shall have the meaning set forth in Section 5(a) below.

Preferred Dividend. The term "Preferred Dividend" shall have the meaning set forth in Section 4(a) below.

Preferred Dividend Payment Date. The term "Preferred Dividend Payment Date" shall have the meaning set forth in Section 4(a) below.

Preferred Dividend Rate. The term "Preferred Dividend Rate" shall have the meaning set forth in Section 4(a) below.

Preferred Quarterly Dividend Period. The term "Preferred Quarterly Dividend Period" shall have the meaning set forth in Section 4(a) below.

Pre-Redemption Record Date. The term "Pre-Redemption Record Date" shall have the meaning set forth in Section 5(a) below.

Quoted Price. The term "Quoted Price" shall have the meaning set forth in Section 5(e)(xi) below.

Redeemed Shares. The term "Redeemed Shares" shall have the meaning set forth in Section 5(a) below.

Redemption Date. The term "Redemption Date" shall have the meaning set forth in Section 5(a) below.

Redemption Notice Date. The term "Redemption Notice Date" shall have the meaning set forth in Section 5(c).

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Redemption Price. The term "Redemption Price" shall have the meaning set forth in Section 5(a) below.

Trading Days. The term "Trading Days" shall have the meaning set forth in Section 8(e)(xi) below.

2. Designation.

The series of No Par Preferred Stock authorized hereby shall be designated as the "No Par Preferred Stock, Series 2000-A." The number of shares constituting such series shall initially be Twenty-One Thousand Five Hundred (21,500). The No Par Preferred Stock, Series 2000-A, shall have no par value.

3. Consideration.

The consideration for the No Par Preferred Stock, Series 2000-A shall for all purposes be deemed to be \$1,000 per share.

4. Dividends.

(a) The holders of the shares of No Par Preferred Stock, Series 2000-A shall be entitled to receive cumulative quarterly cash dividends at a dividend rate equal to 1% per annum per share (the "Preferred Dividend Rate") computed on the basis of \$1,000 per share, when and as declared by the Board of Directors of the Corporation or a duly authorized committee thereof, out of funds legally available for the payment of dividends; in preference to and in priority over any dividends upon Common Stock (the "Preferred Dividend"). Quarterly dividend periods (each a "Preferred Quarterly Dividend Period") shall commence on February 28, May 31, August 31, and November 30, in each year, except that the first Preferred Quarterly Dividend Period shall commence on the date of issuance of the No Par Preferred Stock, Series 2000-A and shall end on and include the day immediately preceding the first day of the next Preferred Quarterly Dividend Period. Dividends on the shares of No Par Preferred Stock, Series 2000-A shall be payable in arrears on March 1, June 1, September 1 and December 1 of each year (each, a "Preferred Dividend Payment Date"), commencing March 1, 2000 (or June 1 in the event Closing occurs after March 1). Each such dividend shall be paid to the holders of record of the No Par Preferred Stock, Series 2000-A as they shall appear on the stock register of the Corporation on such record date, not exceeding 45 days nor less than 10 days preceding such Preferred Dividend Payment Date, as shall be fixed by the Board of Directors of the Corporation or a duly authorized committee thereof. If any date on which dividends would otherwise be payable is a Saturday, Sunday or a day on which banking institutions in the State of South Dakota are authorized or obligated by law or executive order to close, then the dividends otherwise payable on such date shall instead be payable on the next succeeding business day. In addition to the Preferred Dividend, the holders of record of No Par Preferred Stock, Series 2000-A, shall be entitled to receive, when and as declared by the Board of Directors or a duly authorized committee thereof out of funds legally available therefor, dividends (cash or otherwise) in an amount equal to the amount of any dividend declared (other than a dividend declared under a stockholder rights plan or in connection with the implementation of a



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stockholders rights plan) payable with respect to the Common Stock multiplied by the number of shares of Common Stock into which each share of No Par Preferred Stock, Series 2000-A is convertible pursuant to Section 8 hereof (it being assumed for such purposes that all conditions to conversion have been met, whether or not such conditions have in fact been so met), as of the record date for the determination of holders of shares of Common Stock and No Par Preferred Stock, Series 2000-A entitled to receive such dividends. No dividend shall be declared or paid with respect to Common Stock (other than a dividend declared under a stockholder rights plan or in connection with the implementation of a stockholders rights plan) unless such a dividend is declared and paid with respect to the No Par Preferred Stock, Series 2000-A. The record dates and payment dates (the "Common Stock Dividend Payment Date") with respect to the No Par Preferred Stock, Series 2000-A shall be the same as the record and payment dates with respect to the payment of dividends with respect to the Common Stock.

(b) The amount of any dividends accrued on any share of the No Par Preferred Stock, Series 2000-A on any Preferred Dividend Payment Date shall be deemed to be the amount of any unpaid dividends accumulated thereon to and including such Preferred Dividend Payment Date, whether or not earned or declared. Accumulated and unpaid dividends shall not bear interest. The amount of dividends accrued on any share of the No Par Preferred Stock, Series 2000-A on any date other than a Preferred Dividend Payment Date shall be deemed to be the sum of (i) the amount of any unpaid dividends accumulated thereon to and including the last preceding Preferred Dividend Payment Date, whether or not earned or declared, and (ii) an amount determined by multiplying (x) the Preferred Dividend Rate by (y) a fraction, the numerator of which shall be the number of days from the last preceding Preferred Dividend Payment Date to and including the date on which such calculation is made and the denominator of which shall be the full number of days in such Preferred Quarterly Dividend Period.

#### 5. Redemption.

(a) The Corporation by resolution of its Board of Directors may redeem the No Par Preferred Stock, Series 2000-A, in whole or in part, at any time. The redemption price per share (the "Redemption Price") for such shares of No Par Preferred Stock, Series 2000-A so redeemed shall equal the Liquidation Preference Amount on the date fixed for redemption (the "Redemption Date"). Notwithstanding such redemption, if the Redemption Date falls prior to the record date of any dividend payable on Common Stock (other than a dividend declared under a stockholder rights plan or in connection with the implementation of a stockholder rights plan), the holders of record of any shares of No Par Preferred Stock, Series 2000-A so redeemed (the "Redeemed Shares") shall be entitled to receive on the next Common Stock Dividend Payment Date following the next record date for the payment of dividends on Common Stock (the "Post-Redemption Record Date") provided that the Post-Redemption Record Date occurs within twelve months of the Redemption Date, an amount equal to the product of the number of shares of Common Stock into which such Redeemed Shares were convertible on the Redemption Date (assuming for such purpose that the Redeemed Shares were convertible on the Redemption Date) multiplied by (A) the dividend payable on each share of Common Stock multiplied by (B) a fraction the numerator of which is the number of days elapsed from the last Common Stock dividend record date prior to the Redemption Date (the "Pre-Redemption Record Date") to the

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Redemption Date and the denominator of which is the number of days elapsed from the Pre-Redemption Record Date to the Post-Redemption Record Date.

(b) Nothing in this Section 5 shall be construed to preclude a holder of No Par Preferred Stock, Series 2000-A from converting any or all of its shares of No Par Preferred Stock, Series 2000-A in accordance with Section 8 at any time prior to the close of business on the third full business day prior to the Redemption Date.

(c) Notice of redemption shall be given at least thirty days and not more than sixty days prior to the date fixed for such redemption by mailing to the holders of record of the Preferred Stock to be redeemed, at their respective addresses as the same shall appear on the books of the Corporation; but neither failure to mail such notice nor any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any shares of the Preferred Stock so to be redeemed.

6. Voting Rights; Priority.

(a) The No Par Preferred Stock, Series 2000-A, except as provided in the Articles of Incorporation or as otherwise required by law, shall have no voting rights.

(b) The No Par Preferred Stock, Series 2000-A shall rank pari passu with each other series of Preferred Stock as to dividends and distribution of assets on liquidation.

7. Liquidation Preference.

(a) In the event of any Liquidation, then before any distribution shall be made to the holders of the Common Stock, the holders of the shares of the No Par Preferred Stock Series 2000-A at the time outstanding shall be entitled to receive in cash upon any involuntary liquidation, dissolution or winding up of the affairs of the Corporation the Liquidation Preference Amount.

(b) Written notice of any Liquidation of the Corporation, stating a payment date and the place where the distributive amounts shall be payable, shall be given by mail, postage prepaid, not less than 30 days prior to the payment date stated therein, to the holders of record of the No Par Preferred Stock, Series 2000-A at their respective addresses as the same shall appear on the books of the Corporation.

8. Conversion.

(a) Each share of No Par Preferred Stock, Series 2000-A shall be (i) convertible at the option of the holder thereof into validly issued, fully paid and nonassessable shares of Common Stock, in an amount determined in accordance with Section 8(d) below, at any time prior to the fifth (5th) anniversary of the Initial Issue Date, and (ii) automatically converted into validly issued, fully paid and nonassessable shares of Common Stock, in an amount determined in accordance with Section 8(d) below, if outstanding on the fifth (5th) anniversary of the Initial Issue Date (the "Automatic Conversion Date").

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(b) Immediately following the conversion of No Par Preferred Stock, Series 2000-A into Common Stock on the Conversion Date (i) such converted shares of No Par Preferred Stock, Series 2000-A shall be deemed no longer outstanding and (ii) the Persons entitled to receive the Common Stock upon the conversion of such converted No Par Preferred Stock, Series 2000-A shall be treated for all purposes as having become the owners of record of such Common Stock. Upon the issuance of shares of Common Stock upon conversion of No Par Preferred Stock, Series 2000-A pursuant to this Section 8, such shares of Common Stock shall be deemed to be duly authorized, validly issued, fully paid and nonassessable.

(c) To convert No Par Preferred Stock, Series 2000-A into Common Stock at the option of the holder pursuant to Section 8(a)(i), a holder must give written notice to the Corporation at its principal office that such holder elects to convert No Par Preferred Stock, Series 2000-A into Common Stock, and the number of shares to be converted. Such conversion, to the extent permitted by law, regulation, rule or other requirement of any governmental authority and the provisions hereof, including but not limited to Section 5(b), shall be deemed to have been effected as of the close of business on the date on which the holder delivers such notice to the Corporation (such date and the Automatic Conversion Date are each referred to herein as the "Conversion Date" for purposes of any conversion of No Par Preferred Stock, Series 2000-A pursuant to Section 8(a)). Promptly after the Conversion Date, the holder shall (i) surrender the certificate or certificates evidencing the shares of No Par Preferred Stock, Series 2000-A converted or to be converted, duly endorsed in a form reasonably satisfactory to the Corporation, at the office of the Corporation or of the transfer agent for the No Par Preferred Stock, Series 2000-A, (ii) state in writing the name or names in which the certificate or certificates for shares of Common Stock are to be issued, (iii) provide evidence reasonably satisfactory to the Corporation that such holder has satisfied any conditions, contained in any agreement or any legend on the certificates representing the No Par Preferred Stock, Series 2000-A, relating to the transfer thereof, if shares of Common Stock are to be issued in a name or names other than the holder's, and (iv) pay any transfer or similar tax if required as provided in Section 8(j) below. As soon as practical following receipt of the foregoing, the Corporation shall deliver to such former holder of No Par Preferred Stock, Series 2000-A, a certificate representing the shares of Common Stock issued upon the conversion, together with a new certificate representing the unconverted portion, if any, of the shares of No Par Preferred Stock, Series 2000-A, formerly represented by the certificate or certificates surrendered for conversion.

(d) For the purposes of the conversion of No Par Preferred Stock, Series 2000-A into Common Stock pursuant to Section 8(a), each share of No Par Preferred Stock, Series 2000-A shall be convertible into the number of shares of Common Stock equal to the Liquidation Preference Amount divided by the Conversion Price in effect on the Conversion Date. The number of full shares of Common Stock issuable to a single holder upon conversion of the No Par Preferred Stock, Series 2000-A shall be based on the aggregate Liquidation Preference Amount of all shares of No Par Preferred Stock, Series 2000-A owned by such holder. The Conversion Price initially shall equal \$35.00. In the event the Corporation delivers a notice of redemption of the No Par Preferred Stock, Series 2000-A in accordance with Subsection (B) of Article Second of the Articles of Incorporation, the Conversion Price shall be adjusted to equal the lesser of (i) the Conversion Price then in effect and (ii) the Current Market Price (as

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hereinafter defined) on the Redemption Notice Date. In order to prevent dilution of the conversion rights granted hereunder, the Conversion Price shall be subject to adjustment from time to time in accordance with Sections 8(e) through 8(h).

(e) The number of shares issuable upon conversion and the Conversion Price (and each component thereof) are subject to adjustment by the Corporation from time to time upon the occurrence of the events enumerated in this Section 8; provided, however, there shall be no such adjustment in connection with a dividend declared under, or in connection with the implementation of, a stockholder rights plan which would entitle the Common Stock issuable upon conversion of the No Par Preferred Stock, Series 2000-A to the same rights as the Common Stock outstanding on the date of such dividend declaration.

(i) Changes in Capital Stock.

(A) If the Corporation (i) pays a dividend or makes a distribution on its Common Stock in shares of its Common Stock, (ii) subdivides, by stock split, reclassification or otherwise, its outstanding shares of Common Stock into a greater number of shares, (iii) combines its outstanding shares of Common Stock into a smaller number of shares, (iv) makes a distribution on its Common Stock in shares of its capital stock other than Common Stock or (v) issues by reclassification of its Common Stock any shares of its capital stock, then the Conversion Price (and each component thereof) in effect immediately prior to such action shall be proportionately adjusted so that each holder of shares of No Par Preferred Stock, Series 2000-A may receive the aggregate number and kind of shares of capital stock of the Corporation which such holder would have owned immediately following such action if such holder had converted all of his shares of No Par Preferred Stock, Series 2000-A into Common Stock immediately prior to such action.

(B) The adjustment shall become effective immediately after the record date in the case of a dividend or distribution and immediately after the effective date in the case of a subdivision, combination or reclassification.

(C) If after an adjustment a holder of shares of No Par Preferred Stock, Series 2000-A upon conversion may receive shares of two or more classes of capital stock of the Corporation, the Corporation shall determine the allocation of the adjusted Conversion Price between the classes of capital stock. After such allocation, the conversion privilege and the Conversion Price of each class of capital stock shall thereafter be subject to adjustment on terms comparable to those applicable to Common Stock in this Section 8(c)(i).

(D) Any adjustments made pursuant to this Section 8(c)(i) shall be made successively.

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(ii) Common Stock Issue.

(A) If the Corporation issues any additional shares of Common Stock for a consideration per share less than the Current Market Price (as hereinafter defined) on the date the Corporation fixes the offering price of such additional shares, the Conversion Price shall be adjusted as set forth below, such that a holder of shares of No Par Preferred Stock, Series 2000-A, upon conversion of his shares of No Par Preferred Stock, Series 2000-A into shares of Common Stock, shall have the right to receive that number of shares of Common Stock which, after giving effect to the following adjustment, such holder would receive if such holder elected to convert his shares of No Par Preferred Stock, Series 2000-A into Common Stock. The Conversion Price shall be adjusted to the number determined by multiplying the Conversion Price in effect immediately prior to such issuance or sale by a fraction, the numerator of which shall be the sum of (i) the number of shares of Common Stock outstanding immediately prior to the issuance or sale of such additional shares of Common Stock plus (ii) the number of such additional shares which the aggregate consideration received (or by express provision hereof deemed to have been received) by the Corporation for such additional shares so issued or sold would purchase at a consideration per share equal to the Current Market Price, and the denominator of which shall be the number of shares of Common Stock outstanding immediately after the issuance or sale of such additional shares of Common Stock. For the purposes of this Section 8(e)(ii), the date as of which the Current Market Price shall be determined shall be the date of the actual issuance or sale of such shares.

(B) The adjustment shall be made successively whenever any such issuance is made, and shall become effective immediately after such issuance.

(C) This Section 8(e)(ii) does not apply to: (i) any of the transactions described in Sections 8(e)(i), 8(e)(iii) and 8(e)(iv), (ii) the conversion of the shares of No Par Preferred Stock, Series 2000-A, (iii) up to 2,300,000 shares of Common Stock (as adjusted for stock splits, reverse stock splits, stock dividends and reclassifications) to be issued to officers, directors, employees, consultants and advisors of the Corporation and its subsidiaries pursuant to stock purchase, 401(k) or stock option plans or agreements or other incentive stock arrangements approved by the Board of Directors of the Corporation, (iv) shares of Common Stock issued in an arms-length transaction to either acquire another business or other properties or assets as approved by the Board of Directors of the Corporation wherein the Board of Directors has determined that the fair market value of the Common Stock issued in connection with such acquisition does not exceed the fair market value of the business, properties and assets acquired, (v) the issuance and sale of Common Stock in an underwritten public offering, and (vi) the issuance and sale of Common Stock pursuant to a dividend reinvestment plan of the Corporation.

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(iii) Rights Issue.

(A) If the Corporation issues or sells any warrants or options or other rights entitling the holders of Common Stock to subscribe for or purchase either any additional shares of Common Stock or evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable, with or without payment of additional consideration in cash or property, for additional shares of Common Stock (such convertible or exchangeable evidence of indebtedness, shares of stock or other securities hereinafter being called "Convertible Securities"), and the consideration per share for which additional shares of Common Stock may at any time thereafter be issuable pursuant to such warrants, options or other rights or pursuant to the terms of such Convertible Securities (when added to the consideration per share of Common Stock, if any, received for such warrants, options or other rights), shall be less than the Current Market Price at the time of the issuance of the warrants, options or other rights, then the Conversion Price shall be adjusted as provided below, such that a holder of shares of the No Par Preferred Stock, Series 2000-A, upon conversion of his shares of No Par Preferred Stock, Series 2000-A into shares of Common Stock, shall have the right to receive that number of shares of Common Stock which, after giving effect to the following adjustment, such holder would receive if such holder elected to convert his shares of No Par Preferred Stock, Series 2000-A into Common Stock. The Conversion Price shall be adjusted to the number determined by multiplying the current Conversion Price by a fraction, (A) the numerator of which shall be the sum of (i) the number of shares of Common Stock outstanding on the record date plus (ii) the quotient of (x) the number of additional shares of Common Stock covered by such warrants, options or rights, multiplied by the sales price per share of additional shares covered by such warrants, options or other rights, divided by (y) the Current Market Price per share of Common Stock on the record date, and (B) the denominator of which shall be the sum of (i) the number of shares of Common Stock outstanding on the record date and (ii) the number of additional shares of Common Stock covered by such warrants, options or other rights. For purposes of this Section 8(e)(iii), the foregoing adjustment shall be made on the basis that (i) the maximum number of additional shares of Common Stock issuable pursuant to all such warrants, options or other rights or necessary to effect the conversion or exchange of all such Convertible Securities shall be deemed to have been issued and (ii) the aggregate consideration for such maximum number of additional shares shall be deemed to be the minimum consideration received and receivable by the Corporation for the issuance of such additional shares (plus the consideration, if any, received for such warrants, options or other rights) pursuant to such warrants, options or other rights or pursuant to the terms of such Convertible Securities.

(B) The adjustment shall be made successively whenever any such warrants, options or other rights are issued and shall become effective immediately after the record date for the determination of shareholders entitled to receive the warrants, options or other rights.

(C) This Section 8(e)(iii) does not apply to (i) the conversion of the shares of No Par Preferred Stock, Series 2000-A and (ii) the issuance of options or other rights to purchase shares of Common Stock referenced in Section 8(e)(ii)(C)(iii).

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(iv) Convertible Securities Issue.

(A) If the Corporation issues Convertible Securities (other than securities issued in transactions described in Section 8(e)(iii)) and the consideration per share for which additional shares of Common Stock may at any time thereafter be issuable pursuant to the terms of such Convertible Securities is less than the Current Market Price on the date of issuance of such securities, the Conversion Price shall be adjusted as provided below, such that a holder of shares of No Par Preferred Stock, Series 2000-A, upon conversion of his shares of No Par Preferred Stock, Series 2000-A into shares of Common Stock, shall have the right to receive that number of shares of Common Stock which, after giving effect to the following formula, such holder would receive if such holder elected to convert his shares of No Par Preferred Stock, Series 2000-A into Common Stock. The Conversion Price shall be adjusted to the number determined by multiplying the current Conversion Price by a fraction, (A) the numerator of which shall be the sum of (i) the number of shares of Common Stock outstanding immediately prior to the issuance of such securities and (ii) the quotient of (x) the aggregate consideration received for the issuance of such securities, divided by (y) the Current Market Price per share on the date of issuance of such securities and (B) the denominator of which shall be the sum of (i) the number of shares of Common Stock outstanding immediately prior to the issuance of such securities and (ii) the maximum number of shares deliverable upon conversion or in exchange for such securities at the initial conversion or exchange rate. The adjustment shall be made on the basis that (i) the maximum number of additional shares of Common Stock necessary to effect the conversion or exchange of all such Convertible Securities shall be deemed to have been issued and (ii) the aggregate consideration for such maximum number of additional shares of Common Stock shall be deemed to be the minimum consideration received and receivable by the Corporation for the issuance of such additional shares pursuant to the terms of such Convertible Securities. No adjustment of the Conversion Price shall be made under this Section 8(e)(iv) upon the issuance of any Convertible Securities which are issued pursuant to the exercise of any warrants or other subscription or purchase rights therefor, if such adjustment shall previously have been made upon the issuance of such warrants or other rights pursuant to Section 8(c)(iii).

(B) The adjustment shall be made successively whenever any such issuance is made, and shall become effective immediately after such issuance.

(C) This Section 8(e)(iv) does not apply to the conversion of the shares of No Par Preferred Stock, Series 2000-A.

(v) Conversion Price Date. For purposes of Sections 8(c)(iii) and 8(e)(iv), the date as of which the Conversion Price shall be computed shall be the earliest of (i) the date on which the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive any warrants or other rights referred to in Section 8(c)(iii) or to receive any Convertible Securities, (ii) the date on which the Corporation shall enter into a firm contract for the issuance of such warrants or other rights or Convertible Securities or (iii) the date of the actual issuance of such warrants or other rights or Convertible Securities.

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(vi) No Compound Adjustment. No adjustment of the Conversion Price shall be made under Section 8(e)(ii) upon the issuance of any additional shares of Common Stock which are issued pursuant to the exercise of any warrants or other subscription or purchase rights or pursuant to the exercise of any conversion or exchange rights in any Convertible Securities, if such adjustment shall previously have been made upon the issuance of such warrants or other rights or upon the issuance of such Convertible Securities (or upon the issuance of any warrants or other rights therefor), pursuant to Sections 8(e)(iii) and 8(e)(iv).

(vii) Readjustment. If any warrants or other rights (or any portions thereof) which shall have given rise to an adjustment pursuant to Section 8(e)(iii) or conversion rights pursuant to Convertible Securities which shall have given rise to an adjustment pursuant to Section 8(e)(iv) shall have expired or terminated without the exercise thereof and/or if by reason of the terms of such warrants or other rights or Convertible Securities there shall have been an increase or increases, with the passage of time or otherwise, in the price payable upon the exercise or conversion thereof, then the Conversion Price hereunder shall be readjusted (but to no greater extent than originally adjusted), taking into account all transactions described in Sections 8(e)(i) through 8(e)(iv) hereof that have occurred in the interim, on the basis of (i) eliminating from the computation any additional shares of Common Stock corresponding to such warrants or other rights or conversion rights as shall have expired or terminated, (ii) treating the additional shares of Common Stock, if any, actually issued or issuable pursuant to the previous exercise of such warrants or other rights or of conversion rights pursuant to any Convertible Securities as having been issued for the consideration actually received and receivable therefor and (iii) treating any of such warrants or other rights or conversion rights pursuant to any Convertible Securities which remain outstanding as being subject to exercise or conversion on the basis of such exercise or Conversion Price as shall be in effect at the time; provided, however, that any consideration which was actually received by the Corporation in connection with the issuance or sale of such warrants or other rights shall form part of the readjustment computation even though such warrants or other rights shall have expired or terminated without the exercise thereof.

(viii) Consideration Received. To the extent that any additional shares of Common Stock, any warrants, options or other rights to subscribe for or purchase any additional shares of Common Stock, or any Convertible Securities shall be issued for cash consideration, the consideration received by the Corporation therefor shall be deemed to be the amount of the cash received by the Corporation therefor, or, if such additional shares, warrants, options or other rights or Convertible Securities are sold to underwriters or dealers for public offering without a subscription offering, the initial public offering price, in any such case excluding any amounts paid or receivable for accrued interest or accrued dividends and without deduction of any compensation, discounts or expenses paid or incurred by the Corporation for and in the underwriting of, or otherwise in connection with, the issuance thereof. If and to the extent that such issuance shall be for a consideration other than cash, then, except as herein otherwise expressly provided, the amount of such consideration shall be deemed to be the fair value of such consideration at the time of such issuance as determined by the Board of Directors of the Corporation. If additional shares of Common Stock shall be issued as part of a unit with warrants or other rights, then the amount of consideration for the warrant or other right shall be deemed to be the amount determined at the time of issuance by the Board of Directors of the



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Corporation. If the Board of Directors of the Corporation shall not make any such determination, the consideration for the warrant, option or other right shall be deemed to be zero.

(ix) Other Conversions. If a state of facts shall occur which, without being specifically controlled by the provisions of this Section S, would not fairly protect the conversion rights of the holders of shares of No Par Preferred Stock, Series 2000-A in accordance with the essential intent and principles of such provisions, then the Board of Directors of the Corporation shall make an adjustment in the application of such provisions, in accordance with such essential intent and principles, so to protect such conversion rights.

(x) De Minimis Adjustment. Anything herein to the contrary notwithstanding, no adjustment in the Conversion Price shall be required unless such adjustment, either by itself or with other adjustments not previously made, would require a change of at least one percent (1%) in the Conversion Price; provided, however, that any adjustment which by reason of this Section S(e)(x) is not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section S shall be made to the nearest one-tenth of a cent (\$.001) (rounded to the nearest cent (\$.01) with respect to any monetary amount to be actually paid) or to the nearest one hundredth (0.01) of a share, as the case may be.

(xi) Current Market Price. For the purpose of any computation hereunder, the "Current Market Price" on any date will be the average of the last reported sale prices per share (the "Quoted Price") of the Common Stock on each of the fifteen consecutive Trading Days (as defined below) preceding the date of the computation. The Quoted Price of the Common Stock on each day will be (A) the last reported sales price of the Common Stock on the principal stock exchange on which the Common Stock is listed, or (B) if the Common Stock is not listed on a stock exchange, the last reported sales price of the Common Stock on the principal automated securities price quotation system on which sale prices of the Common Stock are reported, or (C) if the Common Stock is not listed on a stock exchange and sale prices of the Common Stock are not reported on an automated quotation system, the mean of the high bid and low asked price quotations for the Common Stock as reported by National Quotation Bureau Incorporated if at least two securities dealers have inserted both bid and asked quotations for the Common Stock on a day will be the Quoted Price of the Common Stock on that day as determined by a member firm of the New York Stock Exchange, Inc. selected by the Board of Directors. If no two securities dealers have inserted such bid and ask quotations, or such Quoted Prices otherwise are not available, the Current Market Price means the fair market value of the Common Stock as of the date prior to the date on which the Current Market Price is determined, which such fair market value shall be determined by the Board of Directors of the Corporation. As used with regard to the No Par Preferred Stock, Series 2000-A, the term "Trading Day" means (x) if the Common Stock is listed on at least one stock exchange, a day on which there is trading on the principal stock exchange on which the Common Stock is listed, (y) if the Common Stock is not listed on a stock exchange, but sale prices of the Common Stock are reported on an automated quotation system, a day on which trading is reported on the principal automated quotation system on which sales of the Common Stock are reported, or (z) if the Common Stock is not listed on a stock exchange and sale prices of the Common Stock are not reported on an

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automated quotation system, a day on which quotations are reported by National Quotation Bureau Incorporated.

(f) No fractional shares of Common Stock shall be issued upon the conversion of No Par Preferred Stock, Series 2000-A. If any fractional interest in a share of Common Stock would, except for the provisions of this subparagraph (f), be deliverable upon the conversion of any No Par Preferred Stock, Series 2000-A, the Corporation shall, in lieu of delivering the fractional share therefor, adjust such fractional interest by payment to the holder of such converted No Par Preferred Stock, Series 2000-A of an amount in cash equal (computed to the nearest cent) to the Current Market Price of such fractional interest on the Conversion Date.

(g) Whenever the Conversion Price is adjusted, as herein provided, the Corporation shall promptly mail a notice of the adjustment to holders of No Par Preferred Stock, Series 2000-A. Failure to give such notice, or any defect therein, shall not affect the legality or validity of the action resulting in the adjustment to the Conversion Price. The Corporation shall forthwith maintain at its principal executive office and file with the transfer agent, if any, for No Par Preferred Stock, Series 2000-A, a statement, signed by the Chairman of the Board, or the President, or a Vice President of the Corporation and by its chief financial officer or an Assistant Treasurer, showing in reasonable detail the facts requiring such adjustment and the Conversion Price after such adjustment. Such transfer agent shall be under no duty or responsibility with respect to any such statement except to exhibit the same from time to time to any holder of No Par Preferred Stock, Series 2000-A desiring an inspection thereof.

(h) If there shall occur any capital reorganization or any reclassification of the capital stock of the Corporation, consolidation or merger of the Corporation with or into another entity, or the conveyance of all or substantially all of the assets of the Corporation to another person or entity, each share of No Par Preferred Stock, Series 2000-A shall thereafter be convertible into the number of shares or other securities or property to which a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of such No Par Preferred Stock, Series 2000-A would have been entitled upon such reorganization, reclassification, consolidation, merger or conveyance; and, in any such case, appropriate adjustment (as determined in good faith in the sole discretion of the Board of Directors of the Corporation) shall be made in the application of the provisions herein set forth with respect to the rights and interests thereafter of the holders of the No Par Preferred Stock, Series 2000-A, to the end that the provisions set forth herein (including provisions with respect to changes in and other adjustments of the Conversion Price) shall be applicable, as nearly as reasonably may be, in relation to any shares or other property thereafter deliverable upon the conversion of the No Par Preferred Stock, Series 2000-A.

(i) The Corporation shall at all times reserve and keep available, out of its authorized but unissued shares of Common Stock or treasury shares thereof, solely for the purpose of issuance upon the conversion of No Par Preferred Stock, Series 2000-A, the full number of shares of Common Stock deliverable upon the conversion of all No Par Preferred Stock, Series 2000-A from time to time outstanding. The Corporation shall from time to time, in accordance with the laws of the State of South Dakota, take all action within its power required to increase the authorized amount of its Common Stock if at any time the authorized number of

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shares of Common Stock remaining unissued shall not be sufficient to permit the conversion of all of the No Par Preferred Stock, Series 2000-A at the time outstanding.

(j) The Corporation shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of Common Stock upon conversion of the No Par Preferred Stock, Series 2000-A into Common Stock. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of any security in a name other than that in which the No Par Preferred Stock, Series 2000-A so converted was registered, and no such issue or delivery shall be made unless and until the person who requested such issue has paid to the Corporation the amount of any such tax, or has established to the satisfaction of the Corporation that such tax has been paid.

9. Exclusion of Other Rights.

Except as otherwise required by law, shares of No Par Preferred Stock, Series 2000-A shall not have any preferences or relative, participating, optional or other special rights, other than those specifically set forth in this resolution and in the Statement of Designations filed pursuant hereto (as such Statement may be amended from time to time) and in the Articles of Incorporation.

10. Reissuance of No Par Preferred Stock, Series 2000-A.

Shares of No Par Preferred Stock, Series 2000-A that have been issued and reacquired in any manner, including shares purchased, redeemed, converted or exchanged, shall (upon compliance with any applicable provisions of South Dakota Codified Laws) have the status of authorized and unissued shares of No Par Preferred Stock undesignated as to series and may be redesignated and reissued as part of any series of No Par Preferred Stock, except No Par Preferred Stock, Series 2000-A.

11. No Retirement Fund; Waivers.

The Corporation shall not be required to set aside any funds as a retirement fund. To the extent applicable, any rights that the holders of the No Par Preferred Stock, Series 2000-A may have under the Articles of Incorporation with respect to a dividend declared under a stockholder rights plan or in connection with the implementation of a stockholder rights plan are waived.

12. Headings of Subdivisions.

The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

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13. Severability of Provisions.

If any right, preference or limitation of the No Par Preferred Stock, Series 2000-A set forth in this resolution and in the Statement of Designations for the No Par Preferred Stock, Series 2000-A (as such Statement may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule or law or public policy, all other rights, preferences and limitations set forth in such Statement of Designations (as so amended) which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall, nevertheless, remain in full force and effect, and no right, preference or limitation herein set forth shall be deemed dependent upon any other such right, preference or limitation unless so expressed herein.

14. Notice.

All notices and other communications required or permitted to be given to the Corporation hereunder shall be made by hand delivery or registered or certified mail, return receipt requested, to the Corporation at its principal executive offices (currently located on the date of the adoption of these resolutions at Black Hills Corporation, 625 Ninth Street, P.O. Box 1400, Rapid City, South Dakota 57709), Attention: Corporate Secretary. Minor imperfections in any such notice shall not affect the validity thereof.

IN WITNESS WHEREOF, Black Hills Corporation has caused this statement to be signed by Roxann R. Basham, its Vice President - Controller and Corporate Secretary, this 22<sup>nd</sup> day of December, 2000.

BLACK HILLS CORPORATION,  
a South Dakota corporation

By: 

Name: Roxann R. Basham

Title: Vice President - Controller and  
Corporate Secretary

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1/12/01

STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 22nd day of December, 2000, before me, the undersigned officer, personally appeared Roxann R. Basham, who acknowledged herself to be the Vice President - Controller and Corporate Secretary of Black Hills Corporation, a South Dakota corporation, and that she, as such Vice President - Controller and Corporate Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Vice President - Controller and Corporate Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Ronda R. Lingle  
Notary Public My Commission Expires  
9/9/05

(SEAL)

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1/12/01

RECEIPT NO.

FILE NO. DB042740

FEE RECEIVED: \$20

STOCK DESIGNATION

OF

BLACK HILLS CORPORATION

Filed at the Request of:

State of South Dakota §  
Office of the Secretary of State

Filed in the office of the Secretary of  
State on December 22, 2000



JOYCE HAZELTINE  
Secretary of State

# State of South Dakota

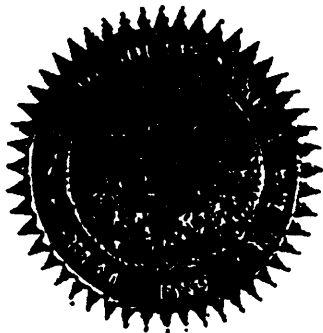


OFFICE OF THE SECRETARY OF STATE

## Certificate of Exchange

I, **JOYCE HAZELTINE**, Secretary of State of the State of South Dakota, hereby certify that duplicate of the Articles of Exchange between **BLACK HILLS CORPORATION**, a South Dakota Corporation, and **BLACK HILLS HOLDING CORPORATION**, a South Dakota Corporation, duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Exchange and attach hereto a duplicate of the Articles of Exchange.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this December 22, 2000.

Handwritten signature of Joyce Hazeltine in cursive script.

Joyce Hazeltine  
Secretary of State

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ARTICLES OF EXCHANGE BETWEEN  
BLACK HILLS HOLDING CORPORATION AND  
BLACK HILLS CORPORATION

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S.D. SEC. OF STATE

SECRETARY OF STATE

Roxann R. Basham, Vice President - Controller and Corporate Secretary of Black Hills Holding Corporation ("Holding") and Black Hills Corporation ("Black Hills"), consistent with the statutory provisions of SDCL 47-6-6, sets forth these Articles of Exchange:

1. Attached as Exhibit A is a Plan of Exchange, consistent with the provisions of SDCL 47-6-2.1. of Holding and Black Hills.
2. Black Hills is the owner of all outstanding shares of Holding; and as of the Plan of Exchange, Black Hills holds 100 shares of common stock of Holding; and as it concerns Black Hills, there are 23,302,111 shares outstanding as of the date of these Articles of Exchange. As of the date of the annual meeting held on June 20, 2000, there were 21,751,207 shares outstanding which were issued and entitled to vote as of that date. Since the date of the annual meeting, 1,536,747 shares were issued relative to the merger transaction between Black Hills Energy Capital, Inc., a wholly owned subsidiary of Black Hills, and Indeck Energy; 9,124 shares related to employee stock purchase plans; and 5,033 shares issued relative to stock options, for a current issued and outstanding total of 23,302,111 shares.
3. As it concerns Holding, all 100 shares of Holding voted for the Plan of Exchange, constituting 100% of all issued and outstanding shares of Holding; and as it concerns Black Hills, 12,987,600 shares voted for the exchange, which affirmative vote is a majority of the shares entitled to vote thereon; 1,861,557 shares voted against the exchange; 225,459 shares abstained from voting; and 3,354,236 shares were held by brokers and were not voted relative to the exchange.

BLACK HILLS HOLDING CORPORATION

By James M. Mattem  
James M. Mattem  
Its Senior Vice President - Corporate  
Administration

ATTEST:  
Roxann R. Basham  
Roxann R. Basham  
Vice President - Controller and  
Corporate Secretary



BLACK HILLS CORPORATION

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By *James M. Matern*  
James M. Matern  
Its Senior Vice President - Corporate  
Administration

ATTEST:

*Roxann R. Basham*  
Roxann R. Basham  
Vice President - Controller and  
Corporate Secretary

STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 22nd day of December, 2000, before me, the undersigned officer, personally appeared James M. Matern and Roxann R. Basham, who acknowledged themselves to be the Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, respectively, of Black Hills Holding Corporation, a corporation, and that they, as such Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Phonda R. Lingle*  
Notary Public  
My Commission Expires 9/9/05

(SEAL)

STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 22nd day of December, 2000, before me, the undersigned officer, personally appeared James M. Matern and Roxann R. Basham, who acknowledged themselves to be the Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, respectively, of Black Hills Corporation, a corporation, and that they, as such Senior Vice President - Corporate Administration, and Vice President - Controller and Corporate Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein



contained, by signing the name of the corporation by themselves as Senior Vice President  
Corporate Administration, and Vice President - Controller and Corporate Secretary.

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IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Pamela R. Lingle  
Notary Public  
My Commission Expires 9/9/05

(SEAL)

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EXHIBIT A

PLAN OF EXCHANGE  
BETWEEN  
BLACK HILLS CORPORATION  
(a South Dakota corporation)  
AND  
BLACK HILLS HOLDING CORPORATION  
(a South Dakota corporation)

RECITALS

A. Black Hills Corporation ("Black Hills") is a corporation duly organized, validly existing and in good standing under the laws of the State of South Dakota; Black Hills is authorized to issue 50,000,000 shares of common stock, \$1 par value ("Black Hills Common Stock"), of which 21,390,949 shares are currently issued and outstanding; 270,000 shares of cumulative preferred stock, \$100 par value, of which no shares were issued and outstanding; and 400,000 shares of series cumulative preferred stock, no par value, of which no shares are currently issued and outstanding.

B. Black Hills Holding Corporation (the "Holding Company"), a wholly owned subsidiary of Black Hills, is a corporation duly organized, validly existing and in good standing under the laws of the State of South Dakota; Holding Company is authorized to issue 100,000,000 shares of common stock, \$1 par value ("Holding Company Common Stock"), of which 100 shares are issued and outstanding, and 25,000,000 shares of series preferred stock, no par value, of which no shares are issued and outstanding.

C. The Board of Directors of Black Hills has adopted resolutions approving this Plan of Exchange (the "Plan") in accordance with the South Dakota Business Corporation Act (the "BCA") and directing that it be submitted to the shareholders of Black Hills for adoption.

ARTICLE I

General

1.01. *Parties to Exchange.* Black Hills and the Holding Company shall effect the exchange of all outstanding shares of Black Hills Common Stock for shares of Holding Company Common Stock in accordance with and subject to the terms of this Plan (the "Exchange"). The Exchange shall be subject to the receipt of the following conditions precedent and such other conditions as the Board of Directors of Black Hills shall determine: (1) the receipt of all necessary governmental approvals and such governmental approvals shall not contain, in the sole judgment of the Board of Directors of Black Hills, any unacceptable conditions; (2) receipt of shareholder approval as required by the BCA; (3) the listing, on official notice of issuance, of the Holding Company Common Stock on the New York Stock Exchange; (4) the receipt of an opinion of counsel covering certain United States federal income tax matters; and (5) the effectiveness of a registration statement under the Securities Act of 1933 covering the Holding Company Common Stock to be issued or reserved for issuance in connection with the Exchange.

1.02. *Effectiveness.* Articles of Exchange, and such other documents and instruments as are required by, and complying in all respects with, the BCA shall be delivered to the appropriate state officials for filing. The Exchange shall become effective upon the date specified in the Articles of Exchange as filed with the Secretary of State of South Dakota (the "Effective Time").

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105. *Termination.* Notwithstanding shareholder approval of this Plan, this Plan may be terminated at any time prior to the Effective Time by either Black Hills or Holding Company by written notice duly authorized by its board of directors delivered to the other corporation.

106. *Amendment.* This Plan may be amended by the written agreement of Black Hills and the Holding Company at any time prior to submission of the Plan to the shareholders of Black Hills for approval and, at any time thereafter prior to the Effective Time except to (i) change the amount or kind of shares to be received by the shareholders of Black Hills or (ii) adversely affect the rights of the shareholders of Black Hills.

## ARTICLE II

### Capital Stock

201. *Exchange.* At the Effective Time, each share of Black Hills Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Exchange and without any action on the part of any holder thereof, be converted and exchanged into one share of Holding Company Common Stock and the Holding Company shall thereupon have acquired and be the holder of each share of Black Hills Common Stock converted and exchanged in the Exchange. All shares of the Holding Company Common Stock so issued shall be validly issued, fully paid and nonassessable.

At the Effective Time, each share of Black Hills Preferred Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Exchange and without any action on the part of any holder thereof, be converted and exchanged into one share of Holding Company Preferred Stock and the Holding Company shall thereupon have acquired and be the holder of each share of Black Hills Preferred Stock converted and exchanged in the Exchange. All shares of the Holding Company Preferred Stock so issued shall be validly issued, fully paid and nonassessable.

202. *Treasury Stock.* At the Effective Time, each share of Black Hills Common Stock held in the treasury of Black Hills shall be canceled and shall be restored to the status of authorized but unissued shares. Black Hills common stock held by Windak Resources Development Corp., a subsidiary of Black Hills Corporation, will be exchanged for shares of Black Hills Holding Corporation.

203. *Certificates.* Following the Effective Time, each holder of an outstanding certificate or certificates theretofore representing shares of Black Hills Common Stock may, but shall not be required to, surrender the same to the Holding Company for reissuance of a new certificate or certificates in holder's name or for transfer, and each such holder or transferee will be entitled to receive a certificate or certificates representing the same number of shares of the Holding Company. Without any further action on the part of Black Hills or the Holding Company, each outstanding certificate which, immediately before the Effective Time, represented Black Hills Common Stock shall be deemed and treated for all corporate purposes to represent the ownership of the same number of shares of Holding Company Common Stock as though a surrender or transfer and exchange had taken place. The holders of Black Hills Common Stock at the Effective Time shall have no right at or after the Effective Time to have their shares of Black Hills Common Stock transferred on the stock transfer books of Black Hills (such stock transfer books being deemed closed for this purpose at the Effective Time) and at and after the Effective Time such stock transfer books shall be deemed to be the stock transfer books of the Holding Company.

204. *Cancellation of Holding Company Common Stock Held by Black Hills.* Immediately prior to the Effective Time, each share of Holding Company Common Stock issued and outstanding immediately before the Effective Time shall be canceled and thereupon shall constitute an authorized but unissued share, and all rights in respect thereof shall cease. Black Hills, as the sole holder of Holding Company Common Stock, consents to such cancellation.

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205. *Assumption of Black Hills Benefit Plans* The Holding Company hereby agrees to assume, and Black Hills acknowledges such assumption at and as of the Effective Time, the following stock benefit plans of Black Hills: Dividend Reinvestment and Stock Purchase Plan, Employee Stock Purchase Plan, 1996 and 1999 Stock Option Plans, Short-Term Annual Incentive Compensation Plan, Retirement Savings 401(k) Plan, Outside Directors Stock Based Compensation Plan and Non-Qualified Deferred Compensation Plan (collectively, the "Benefit Plans"). In connection with the foregoing, the parties agree that the Benefit Plans shall be amended to provide that the Holding Company Common Stock will be issued in lieu of Black Hills Common Stock under the terms of the Benefit Plans. The Holding Company shall reserve, for purposes of the Benefit Plans, that number of shares of Holding Company Common Stock equivalent to the number of shares of Black Hills Common Stock reserved for such purposes immediately prior to the Effective Time.

206. *Election of Directors* Prior to or as of the Effective Time, the Holding Company shall cause each director of Black Hills who is not then also a director of the Holding Company to be elected a director of the Holding Company so that as of the Effective Time, the Holding Company shall have the same directors as Black Hills.

207. *Name Change* At and as of the Effective Time, the name of Black Hills shall be changed to "Black Hills Power and Light Company," and the name of Holding Company shall be changed to "Black Hills Corporation."

208. *Governing Law* This Plan of Exchange shall be governed by and construed in accordance with the laws of the State of South Dakota.

IN WITNESS WHEREOF, the parties hereto have executed this Plan of Exchange as of April 28, 2000.

BLACK HILLS CORPORATION

By:           /s/ DANIEL P. LANDGUTH            
Name: Daniel P. Landguth  
Title: Chairman of the Board and Chief Executive Officer

BLACK HILLS HOLDING CORPORATION

By:           /s/ DANIEL P. LANDGUTH            
Name: Daniel P. Landguth  
Title: Chairman of the Board, President and Chief Executive Officer

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1/12/01

Receipt Number: 930935  
File Number DB042740

**ARTICLES OF EXCHANGE**

For

between **BLACK HILLS CORPORATION** and **BLACK HILLS HOLDING CORPORATION**

Filed at the request of:

Morrill Thomas Nooney & Braun  
Box 8108  
Rapid City SD 57709

*State of South Dakota*  
*Office of the Secretary of State*

Filed in the office of the Secretary of State on: Friday, December 22, 2000

  
Secretary of State

Fees Received: \$20

SECRETARY OF STATE  
STATE CAPITOL  
500 E. CAPITOL  
PIERRE, S.D. 57501-5077  
605-773-4845

STATEMENT OF CHANGE OF REGISTERED OFFICE  
OR REGISTERED AGENT, OR BOTH

File Date \_\_\_\_\_  
Receipt No. \_\_\_\_\_

FILING FEE: \$10 In addition to annual report fee

Pursuant to the provisions of the South Dakota Corporation Acts, the undersigned corporation submits the following statement for the purpose of changing its registered office and/or its registered agent in the state of South Dakota.

1. The name of the corporation is Black Hills Corporation
2. The previous street address, or a statement that there is no street address, of its registered office  
625 Ninth Street, Rapid City, SD ZIP + 4 57701-2681
3. The current address to which the registered office is to be changed. A PO box number can be used for mailing but a street address, or a statement that there is no street address if street addresses have not been assigned, or the RR address, must also be included. 625 Ninth Street, P.O. Box 1400, Rapid City, SD  
ZIP + 4 57709-1400
4. The name of its previous registered agent is Roxann Basham
5. The name of its successor registered agent is Steven J. Helmers  
\*The Consent of Registered Agent below must be completed by the new agent.
6. The address of its registered office and the address of the business office of its registered agent, as changed, will be identical.
7. This change has been authorized by resolution duly adopted by the board of directors.

The statement may be signed by the chairman of the board of directors, by its president, or by another of its officers in the presence of a notary of public.

Dated April 26, 2001

Steven J. Helmers  
(Signature)

General Counsel & Corporate Secretary  
(Title)

STATE OF SOUTH DAKOTA ss  
COUNTY OF PENNINGTON

On this the 26th day of April, 20 01, before me, LeeAnn Steckler  
personally appeared Steven J. Helmers, known to me, or proved to me,  
to be the General Counsel & Corporate Secretary of the corporation that is described in and that executed the within  
instrument and acknowledged to me that such corporation executed the same.  
My Commission Expires 10-11-2004

LeeAnn Steckler  
Notary Public

(Notarial Seal)

**CONSENT OF APPOINTMENT BY THE REGISTERED AGENT**

I, Steven J. Helmers, hereby give my consent to serve as the  
(name of registered agent)  
registered agent for Black Hills Corporation  
(corporate name)  
Dated April 26, 2001  
Steven J. Helmers  
(signature)

SOUTH DAKOTA

SECRETARY OF STATE  
STATE CAPITOL  
500 E. CAPITOL AVE.  
PIERRE, S.D. 57501  
605-773-4845

STATEMENT OF CHANGE OF REGISTERED OFFICE,  
OR REGISTERED AGENT, OR BOTH  
FILING FEE: \$10

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11/4/02

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S.D. SEC. OF STATE

Pursuant to the provisions of the South Dakota Corporation Acts, the undersigned corporation submits the following statement for the purpose of changing its registered office and/or its registered agent in the state of South Dakota.

- The name of the corporation is Black Hills Corp. Co 7747 DBO 42740
- The previous street address, or a statement that there is no street address, of its registered office 625 Ninth Street;  
PO Box 1406, Rapid City, SD ZIP 57709-1400
- The street address, or a statement that there is no street address, to which the registered office is to be changed is  
503 South Pierre Street  
Pierre, South Dakota ZIP 57501
- The name of its previous registered agent is Steven J Helmers
- The name of its successor registered agent is Corporation Service Company  
\* The Consent of Registered Agent below must be completed by the new agent.
- The address of its registered office and the address of the business office of its registered agent, if changed, shall be identical.
- This change has been authorized by resolution duly adopted by the board of directors.

Filed this 21st day of Nov 2001  
*Jayne Riske*  
SECRETARY OF STATE

The statement may be signed by the chairman of the board of directors, by its president or by another of its officers in the presence of a notary public.

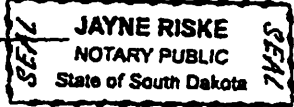
Date 11-9-01

*Steven J Helmers*  
(Signature)  
Steven J. Helmers, Corp. Secretary  
(Title)

STATE OF South Dakota  
COUNTY OF Pennington

I, Jayne Riske a notary public, do hereby certify that on this 7th day of November, 2001, personally appeared before me Steven J Helmers who, being by me first duly sworn, declared that he/she is the Secretary of Black Hills Corp that he/she signed the foregoing document as officer of the corporation, and the statements therein contained are true.

8/11/07  
My Commission Expires



*Jayne Riske*  
(Notary Public)

Notarial Seal

**CONSENT OF APPOINTMENT BY THE REGISTERED AGENT**

I, Corporation Service Company, hereby give my consent to serve as the  
(name of registered agent)

registered agent for Black Hills Corp.  
(corporate name)

Dated 11-27-01

By: *Bobbie Hall*  
(signature of registered agent)  
Bobbie Hall, Asst. VP



CONFIDENTIAL

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1/4/02

Receipt Number: 1038710  
File Number DB042740

**STATEMENT OF CHANGE**

For

**BLACK HILLS CORPORATION**

Filed at the request of:

CSC - SACRAMENTO  
TAMI GREEN  
2730 GATEWAY OAKS DR STE 100  
SACRAMENTO CA 95833

*State of South Dakota*  
*Office of the Secretary of State*

Filed in the office of the Secretary of State on: Wednesday, November 28, 2001

  
Secretary of State

Fees Received \$10.00