

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Mark Sievers, Chairman
Ward Loyd, Commissioner
Thomas E. Wright, Commissioner

Sam Brownback, Governor

**STAFF'S SECOND REVISED REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Mark Sievers
Commissioner Ward Loyd
Commissioner Thomas E. Wright
Patti Petersen-Klein, Executive Director

FROM: Dan Ostahowski
Kristina Luke
Justin Grady

DATE: September 30, 2011

DATE SUBMITTED TO EXECUTIVE DIRECTOR: _____

DATE SUBMITTED TO LEGAL: 9-30-11

DATE SUBMITTED TO COMMISSIONERS: 9-30-11

SUBJECT: Docket Number 12-BHCG-055-TAR: Staff's Reply to Black Hills Energy Response to Staff's Report and Recommendation; Amended Recommendation to Reflect Accurate Values for Staff's Deletions

SUMMARY

In the subject docket, Black Hills Energy, (BHE) filed a request for amending the company's tariff schedule labeled: the Gas System Reliability Surcharge, (GSRS). As required by statute, the Commission Staff (Staff) filed its review of the application within 60 days of its receipt. In its review, Staff recommended that all costs associated with the repair of pipelines caused by outside excavator damage not be considered as eligible for GSRS rate treatment. Because the amount charged for these items was unknown to Staff at the time of the statutory deadline for filing the original Report and Recommendation, Staff estimated the amount to be excluded from the GSRS to be \$495,000 based on the average costs for a main replacement included in this category of projects.

BHE responded to Staff's Report and Recommendation and agreed to withdraw the offending projects from the blanket work order main replacement category and to include in its withdrawal, a service line repair that had been caused by a BHE contractor.. Additionally, in its response, BHE noted the actual costs of the main replacement projects included in the blanket

work order and subject to exclusion is \$16,755 which is \$478,245 less than Staff's initial estimate.

Because of the large difference between the actual cost of the repairs incurred by the blanket work order and Staff's estimate, Staff recommends an adjustment to its original Report and Recommendation be made. The amended amount recommended by Staff for inclusion in the GSRS is approximately \$10,061,406. This amount equates to a revised GSRS increase of \$637,501, to be collected via the per-customer surcharges listed on Line 18 of Exhibit KAL-2, as attached to Staff's Report and Recommendation.

ANALYSIS:

Pipeline Safety

BHE filed to recover costs incurred by 68 safety-related (SR-#) projects and two blanket replacement projects (SR- 69 and SR – 70) in their GSRS. BHE defines a blanket work order as a collection of small system improvement projects required to be less than \$10,000 but typically less than \$5,000.¹ Blanket project (SR-69) covered 252 projects for replacement of short sections of main

Of the 252 main replacement projects included in the blanket work order, 99 were prompted by third party damage. Third party damage occurs when an excavator doing work not related to gas operations damages the gas facilities. Typically, excavation damage is caused by one of two sources: the excavator not using reasonable care when working around properly marked pipelines; or the utility failing to provide accurate indications of the location of its facilities. In the case of those damages that are the excavator's fault, it has been Staff's experience that the excavator is billed for repair charges by the utility operator. Staff's Report and Recommendation recommended exclusion of all third party damage repair related costs because in our opinion, the simple repair of a damaged pipeline restores gas service – it does not extend the useful life or enhance the integrity of pipeline system components which is the intent of the GSRS. Based on the average blanket work order cost of \$5,000 per project, Staff recommended \$495,000 be excluded from consideration for recovery under GSRS.

Staff received responses to Data Request 13 and 14 providing information on third party damages after Staff's September 14, 2011 filing deadline. The responses provided actual monetary figures for the third party damage costs, replacing the ones estimated by Staff in the initial filing.

In its response to Staff's Report and Recommendation, BHE agreed with Staff that main replacement projects due to third party damage do not meet the requirements of GSRS. However, BHE requested that an adjustment to Staff's recommendation be made to reflect net costs related to third party damage replacement projects that were included in the blanket work order. In its reply, BHE pointed out the actual cost for performing main repairs due to third party damage was \$125,935. Of that amount, \$109,934 was collected from excavators who were deemed responsible for causing the damages. The collected amount was credited to the blanket work order. Therefore, the net cost for third party damage remaining in the blanket work order

¹ JAW-1 pg. 5

was only \$16,001. As noted above, BHE agrees this amount of repair costs should not be included in the GSRS filing

Staff finds that the remaining projects filed under the SR-69 blanket main replacement meet the criteria for inclusion in the GSRS tariff. Responses to DR 13 and 14 also led to the discovery that BHE had included costs in SR-70 for repairing a damaged service line which occurred at 401 Jubilee Street in Andale, Kansas totaling \$753.99. Staff recommends disallowance for this amount because Staff's field investigation of this damage found BHE to be at-fault. BHE agrees that this amount should not be recovered.² Staff believes all other projects in the SR-70 blanket meet GSRS criteria for recovery. Therefore, the total amount Staff recommends be disallowed from the GSRS filing is \$16,754.99.

Accounting

RECOMMENDATION:

Staff is recommending approval of Black Hill's new GSRS revenue requirement of \$637,501. In addition, Staff recommends that Black Hills be allowed to continue collecting its current GSRS surcharge approved in Docket No. 10-BHCG-786-TAR (786 Docket), amounting to \$1,012,346. In total Black Hills should be authorized to collect \$1,649,847, in GSRS revenues per year, via the per-customer surcharges listed on Line 18 of Exhibit KAL-2, as attached to Staff's Report and Recommendation.

Staff performed an audit of Black Hill's application to verify that the surcharge was properly calculated and based solely on the projects included in the application. The findings of Staff's audit are presented below. Most of the discussion points have a revenue requirement impact which is included in Staff's revenue requirement calculation.

- Staff issued discovery requesting work orders and general ledger entries in support of a random sample of projects included in the application. Staff encountered no material errors in this regard.
- Staff sought and obtained various information related to the different components of the GSRS revenue requirement requested by Black Hills. These include accumulated depreciation, accumulated deferred income taxes, depreciation expense and the true-up of revenues collected during the previous year versus revenues authorized in the 786 Docket. During Staff's audit it was discovered that Black Hills did not calculate the necessary depreciation expense offset associated with retirements related to the blanket work orders discussed above (SR-69 and SR-70). Staff sought and obtained the relevant retirement information, and revised the GSRS calculation to reflect the impact of these retirements on depreciation expense. The details of Staff's revised calculations are attached to Staff's revised report and recommendation.

² Black Hill's September 19, 2011 Response to Staff Report and Recommendation, pg 3, paragraph 5.

- During Staff's review, Staff discovered that Black Hill's State tax rate was included at 7.05% instead of the current 7.0%. This change was communicated with Black Hills and reflected in Staff's revised surcharge calculation.

RECOMMENDATION:

Approve Black Hills' revised GSRS increase of \$637,501, to be collected via the per-customer surcharges listed on Line 18 of Exhibit KAL-2 as attached to Staff's Report and Recommendation with the following conditions:

1. Black Hills must file updated GSRS tariffs to reflect the changes in the per-customer surcharge as discussed above prior to billing the new surcharges.
2. Staff will insure that the amounts recovered via this surcharge will be subject to an appropriate true-up calculation in Black Hill's next GSRS filing, and any over/under recoveries will be appropriately refunded/recovered from customers at that time.

CERTIFICATE OF SERVICE

12-BHCG-055-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing NOTICE OF FILING OF STAFF'S SECOND REVISED REPORT AND RECOMMENDATION was placed in the United States mail, postage prepaid, or hand-delivered this 1st day of October, 2011, to the following:

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 SOUTH HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

NIKI CHRISTOPHER, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
n.christopher@curb.kansas.gov
Hand Delivered

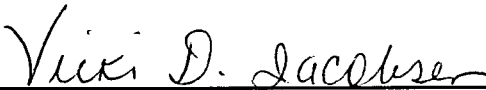
C. STEVEN RARRICK, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rarrick@curb.kansas.gov
Hand Delivered

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov
Hand Delivered

SHONDA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
sd.smith@curb.kansas.gov
Hand Delivered

DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov
Hand Delivered

JUDY JEWSOME, ASSISTANT LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
j.jewsome@kcc.ks.gov
Hand Delivered



Vicki D. Jacobsen