

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION )  
OF BLACK HILLS POWER, INC. FOR )  
AUTHORITY TO INCREASE ITS )  
ELECTRIC RATES )  
)  
)  
)**

**ORDER CONDITIONALLY  
AUTHORIZING AND APPROVING  
IMPLEMENTATION OF  
CONTRACTS WITH DEVIATIONS  
RATES ON AN INTERIM BASIS**

**EL12-061**

On December 17, 2012, the South Dakota Public Utilities Commission (Commission) received an Application for Authority to Increase Its Electric Rates (Application) filed by Black Hills Power, Inc. (BHP) for approval to increase rates for electric service to customers in its South Dakota service territory by approximately \$13.7 million annually or approximately 9.94% based on BHP's test year ending June 30, 2012. BHP states that a typical residential electric customer using 650 kWh per month would see an increase of \$7.11 per month. The proposed changes may potentially affect approximately 65,000 customers in BHP's South Dakota service territory. On December 20, 2012, the Commission electronically transmitted notice of the filing and the intervention deadline of February 28, 2013, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv.

On January 15, 2013, a Petition to Intervene of GCC Dacotah, Inc., Rushmore Forest Products, Inc., Spearfish Forest Products, Inc., Pete Lien & Sons, Inc., and Rapid City Regional Hospital (collectively Black Hills Industrial Intervenors) was filed. On January 17, 2013, the Commission issued an Order Assessing Filing Fee and Suspending Operation of Proposed Rates. On January 28, 2013, a Petition to Intervene of Regency Midwest Ventures Limited Partnership and Deadwood Resort, L.L.C. was filed. On January 28, 2013, BHP filed Black Hills Power, Inc.'s Statement of No Objection to Petition for Intervention of Industrial Intervenors. On January 29, 2013, a Petition to Intervene of Wal-Mart Stores, Inc. and Sam's West, Inc. (Walmart) was filed. On February 5, 2013, the Commission issued an Order Granting Intervention to Black Hills Industrial Intervenors. On February 11, 2013, BHP filed Black Hills Power, Inc.'s Response to Intervention Petitions. On February 15, 2013, the Commission issued an Order Granting Intervention to Wal-Mart Stores, Inc. and Sam's West Inc. On February 28, 2013, the Commission issued an Order Denying Intervention without Prejudice denying intervention to Regency Midwest Ventures Limited Partnership and Deadwood Resort, L.L.C. On May 2, 2013, the Commission issued an Order for and Notice of Procedural Schedule and Hearing setting the matter for hearing on October 8-11, 2013.

On May 23, 2013, Black Hills Power filed a Joint Motion for Approval of Settlement Agreement Between Black Hills Power and South Dakota Science and Technology Authority (SDSTA), Settlement Agreement Between Black Hills Power and South Dakota Science and Technology Authority, Supplemental Motion for Approval of Settlement Agreement, Joint Motion for Approval of Settlement Agreement Between Black Hills Power and Menards, Inc. d/b/a Midwest Manufacturing d/b/a Dakota Panel (Dakota Panel), Settlement Agreement Between Black Hills Power and Menard, Inc. d/b/a Midwest Manufacturing d/b/a Dakota Panel, and Supplemental Motion for Approval of Settlement Agreement. On June 13, 2013, Black Hills Power filed responses to Staff's data requests. On June 13, 2013, Staff filed its memorandum

regarding contracts with deviations. On June 14, 2013, Black Hills Power filed supplemental email data requests and responses.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-34A, specifically, 49-34A-6, 49-34A-8, 49-34A-8.3, and 49-34A-11.

At its regularly scheduled meeting on June 18, 2013, the Commission considered this matter. Staff recommended that the Commission deny the SDSTA and Dakota Panel Joint Motions for Approval of Settlement Agreement and alternatively conditionally authorize, on an interim basis, the implementation of the rates set forth in the contracts with deviations with the conditions recommended in Staff's Memorandum.

The Commission voted unanimously to deny the SDSTA and Dakota Panel Joint Motions for Approval of Settlement Agreement since neither SDSTA nor Dakota Panel is a party to the case, to defer action on approval of the contracts with deviations until later in the process, and alternatively to authorize and approve on an interim basis the implementation of the settlement rates set forth in each of the SDSTA and Dakota Panel contracts with deviations subject to the conditions recommended by Staff.

It is therefore

ORDERED, that the Joint Motion for Approval of Settlement Agreement is denied for both SDSTA and Dakota Panel with respect to approval of the Settlement Agreement as a contested case settlement, since neither SDSTA nor Dakota Panel is a party to the case. It is further

ORDERED, that action is deferred until later in the process on approval, as contracts with deviations, of the Amendment to Electric Power Service Agreement between Black Hills Power, Inc. and SDSTA and the Restatement and Amendment of Electric Power Service Agreement between Black Hills Power and Dakota Panel, including the Settlement Agreement incorporated by reference therein. It is further

ORDERED, as an alternative to approving the contracts with deviations at this time, the implementation of the settlement rates set forth in the each of the contracts with deviations are conditionally authorized and approved, commencing June 16, 2013, on an interim basis, subject to later approval of such contract with deviations by the Commission and subject to the following conditions:

1. If the contract with deviations is not subsequently approved by the Commission, the rates to be paid by SDSTA and Dakota Panel for the period on and after June 16, 2013, shall be the rates ultimately approved in the rate case for the applicable class of service, with the difference between the interim rates paid by SDSTA and Dakota Panel and the rates ultimately approved in the rate case for the applicable class of service to be subject to true-up and refund or repayment, as the case may be, with interest at the rate approved in a refund order of the Commission after final decision in the general rate case; or

2. If the contract with deviations is subsequently approved by the Commission with modification of the settlement rates to be paid by SDSTA and Dakota Panel, the rates to be paid by SDSTA and Dakota Panel for the period on and after June 16, 2013, shall be such contract with deviation rates as are ultimately approved by the Commission, with the difference between the conditionally approved interim rates and the contract with deviation rates ultimately

approved by the Commission to be subject to true-up and refund or repayment, as the case may be, with interest at the rate approved in the refund provisions of the Commission's order approving the contract with deviations with modified rates or, if refund is not ordered in such order, in the refund order of the Commission at the time of the general rate decision.

3. This approval does not pre-determine a Commission decision in the current or future rate case proceedings regarding rate treatment of revenue requirement shortfalls resulting from rates approved as contracts with deviations.

Dated at Pierre, South Dakota, this 24 day of June, 2013.

<b>CERTIFICATE OF SERVICE</b>	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.	
By:	<u>Joy Lashley</u>
Date:	<u>6-25-13</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Gary Hanson  
GARY HANSON, Chairman

Chris Nelson  
CHRIS NELSON, Commissioner

Kristie Fiegen  
KRISTIE FIEGEN, Commissioner