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**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**

**STAFF MEMORANDUM SUPPORTING  
AMENDED SETTLEMENT STIPULATION**

**DOCKET EL14-026**

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Commission Staff (Staff) submits this Memorandum in support of the Amended Settlement Stipulation (Amended Settlement) of February 10, 2015, between Staff and Black Hills Power Company (BHP or Company) in the above-captioned matter.

**BACKGROUND**

On March 31, 2014, the Company filed an application with the South Dakota Public Utilities Commission (Commission) requesting approval to increase rates for electric service to customers in its South Dakota retail service territory by approximately \$14.6 million annually or approximately 9.27%. A typical residential electric customer using 650 kWh per month would see an increase of \$10.91 per month.

BHP's proposed increase was based on a historical test year ended September 30, 2013, adjusted for what BHP believed to be known and measurable changes, a 10.25% return on common equity, and a 8.48% overall rate of return on rate base.

The Commission officially noticed BHP's filing on April 3, 2014, and set an intervention deadline of June 6, 2014. On April 11, 2014, BHP filed revisions to certain pages originally filed in the application. On April 16, 2014, the Commission issued an Order Assessing Filing Fee. On June 6, 2014, a Petition to Intervene of GCC Dacotah, Inc., Pete Lien & Sons, Inc., Rushmore Forest Products, Inc., Spearfish Forest Products, Inc., Rapid City Regional Hospital, Inc., and Wharf Resources (U.S.A.), Inc. (collectively, Black Hills Industrial Intervenors or BHII) was filed. On June 6, 2014, Dakota Rural Action (DRA) also filed a Petition to Intervene. On June 26, 2014, the Commission issued an Order Granting Intervention to Black Hills Industrial Intervenors. On June 26, 2014, the Commission granted intervention to Dakota Rural Action subject to its filing an affidavit, which was filed on June 27, 2014. On September 3, 2014, BHP filed a Notice of Intent to Implement Interim Rates effective on and after October 1, 2014.

On September 4, 2014, BHP filed a Motion for Approval of Settlement Agreement, Confidential Settlement Agreement between Black Hills Power, Inc. and South Dakota Science and Technology Authority (SDSTA), including the associated Third Amendment to Electric Power Service Agreement between Black Hills Power, Inc. and SDSTA, and relevant exhibits. On September 10, 2014, Staff filed its memorandum regarding the Contracts with Deviations. On September 18, 2014, the Commission issued

an Order Conditionally Authorizing and Approving Implementation of Contract with Deviations Rates on an Interim Basis.

Settlement discussions between Staff, BHP, BHII, and DRA commenced on October 28, 2014. Thereafter, Staff and BHP (jointly, the Parties) held several settlement discussions in an effort to arrive at a mutually acceptable resolution of the issues presented in BHP's filing. Ultimately, the Parties reached a comprehensive agreement on BHP's overall revenue deficiency and other issues presented in this case including, but not limited to, class revenue responsibilities, rate design, and tariff concerns. BHII and DRA are not parties to the settlement. On December 9, 2014, BHP and Staff jointly filed a Joint Motion for Approval of Settlement Stipulation, Settlement Stipulation, and Exhibits. On December 12, 2014, the Commission issued a Scheduling Order setting this matter for hearing on January 27-29, 2015. On December 30, 2014, the Commission issued an Order for and Notice of Hearing.

BHII filed Direct Testimony and Exhibits of Lane Kollen and Direct Testimony and Exhibits of Stephen J. Baron on December 30, 2014. No testimony was filed by DRA. On January 15, 2015, Staff filed David E. Peterson's direct testimony that addressed specific items discussed in Mr. Kollen's testimony and Mr. Baron's testimony. On January 15, 2015, BHP submitted rebuttal testimony.

The hearing was held as scheduled on January 27-28, 2015, with Staff, BHP, BHII, and DRA appearing and presenting evidence and argument. At the conclusion of the hearing, the Commission decided to defer taking action on the outstanding issues until its regular meeting on March 2, 2015. On January 29, 2015, the Commission issued a Post-Hearing Procedural Order.

## **OVERVIEW OF AMENDED SETTLEMENT**

Upon hearing arguments from the Parties and the Intervenors and weighing Commission concerns at the hearing, Staff and BHP found it in the best interest of all the Parties to work toward an amended settlement, which would correct the utility holdings allocation oversight presented by BHII. Staff and BHP held a settlement meeting on February 6, 2015, to address this concern. As a result, some party positions were modified and others were accepted where consensus was found. Ultimately, the Parties agreed on a resolution of the issue. The following describes the changes from the originally filed Settlement.

### **Utility Holdings Allocation Oversight Correction**

As shown on Staff Exhibit\_\_\_(DEP-2), Schedule 1, the amended cost of service corrects the South Dakota allocation of transmission load dispatch expense, FERC Account 561, for the Black Hills Corporation/Black Hills Utility Holdings intercompany charges adjustment, reducing the revenue requirement by \$286,041. Thus, the Amended Settlement corrects the initial oversight.

### **Wyodak Operations and Maintenance Adjustment**

The Amended Settlement accepts the \$412,988 Wyodak O&M adjustment as provided by BHP in Exhibit JTR-1. This adjustment updates production O&M costs at the Wyodak power plant from \$3,045,652 incurred during the test year to \$3,458,640 incurred from October 2013 through September 2014. This represents a known and measurable increase to test year expense.

### **Cash Working Capital, NOL Adjustment, Interest Synchronization, Bad Debt Adjustment**

The Amended Settlement uses the same calculation for these adjustments as the Settlement filed on December 9, 2014. However, the revenue requirement value of each adjustment changes based on the resolution of various issues in the case. These adjustments are dependent on the pro forma rate base, expenses and revenues, and were recalculated as a result of the Utility Holdings allocation correction and the Wyodak O&M adjustment.

### **No Change to Revenue Deficiency**

Although Exhibit\_\_\_(BAM-4), Schedule 1 of the amended cost of service shows a \$7,010,894 revenue deficiency, the revenue deficiency in the Amended Settlement will remain at the \$6,890,746 level provided in the original Settlement. Thus, the amended cost of service more than supports the revenue requirement agreed upon in the Amended Settlement, and ratepayers will not incur the added rate case expense required to prepare revised rates and tariff sheets.

### **Additional Moratorium**

The Amended Settlement extends the stay-out provision an additional three months from what was agreed to in the original Settlement. Thus, BHP shall not file any rate application for an increase in base rates which would go into effect prior to January 1, 2017. This addition would provide a calendar year test year, should BHP file for an increase at the expiration of the moratorium.

### **RECOMMENDATION**

Staff recommends the Commission approve the Amended Settlement for the reasons stated above.