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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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

EL09-018

Transcript of Proceedings
June 10, 2010

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION,
DUSTIN JOHNSON, CHAIRMAN (via DDN)
STEVE KOLBECK, VICE CHAIRMAN (via telephone)
GARY HANSON, COMMISSIONER (via DDN)

COMMISSION STAFF
John Smith (via DDN)
Karen Cremer
Greg Rislov
Dave Jacobson
Tim Binder
Jon Thurber
Terri Labrie Baker
Bob Knadle
Cindy Kemnitz
Demaris Axthelm

APPEARANCES

Lee A. Magnuson (via DDN),
appearing on behalf of Black Hills Power,
Sam Khorroosi (via telephone),
appearing on behalf of the Residential Consumer
Coalition,
Andrew Moratzka (via DDN),
appearing on behalf of Black Hills Industrial
Interveners.

Reported By Cheri McComsey Wittler, RPR, CRR

1 TRANSCRIPT OF PROCEEDINGS, held in the
2 above-entitled matter, at the South Dakota State Capitol
3 Building, 500 East Capitol Avenue, Pierre, South Dakota,
4 on the 10th day of June, 2010, commencing at
5 1 o'clock p.m.

1 CHAIRMAN JOHNSON: We will call this Ad Hoc
2 Meeting of the South Dakota Public Utilities Commission
3 to order. It is June 10. It's approximately 1 o'clock.
4 The meeting is taking place electronically both in the
5 Capitol Building in Pierre and at the Mitchell Technical
6 Institute. We also, as is typical, have folks
7 participating telephonically.

8 There is one Docket on the agenda for today.
9 That's EL09-018. That is the Black Hills Power rate
10 case.

11 We do have three questions before the Commission
12 today. I should tell you that I am Dusty Johnson. My
13 colleagues Steve Kolbeck and Gary Hanson are also
14 participating in the meeting.

15 We do have a court reporter, Ms. Cheri Wittler.
16 And so to aid her in her work let's go ahead and pause
17 for a moment and let her know who we have on the
18 telephone and at each location. We will begin here in
19 Mitchell, and we would just ask each person to identify
20 themselves.

21 MR. MAGNUSON: Thank you, Chairman Johnson. I
22 am Lee Magnuson from Lynn, Jackson Law Firm here as
23 outside counsel for Black Hills Power.

24 MR. WHITE: Kyle White with Black Hills
25 Corporation.

1 MR. BRINK: Todd Brink with Black Hills
2 Corporation.

3 MR. MORATZKA: Andrew Moratzka, M-O-R-S-T-Z-K-A,
4 here on behalf of the Black Hills Industrial Interveners.
5 And at the Capitol is Chuck Schroyer, also appearing for
6 Black Hills Interveners.

7 CHAIRMAN JOHNSON: Great. Thanks, Mr. Moratzka.
8 Let's go ahead and work the phone lines and see what
9 parties we have there.

10 Mr. Khorroosi, I know you're on.

11 MR. KHOROOSI: Yes. Good afternoon,
12 Commissioner. Sam Khorroosi, spelled K-H-O-R-O-O-S-I,
13 appearing from Sioux Falls on behalf of the Residential
14 Consumers Coalition.

15 CHAIRMAN JOHNSON: Mr. Khorroosi, do you have any
16 other person with you or with your intervening party on
17 the telephone line?

18 MR. KHOROOSI: No.

19 CHAIRMAN JOHNSON: Okay. That's fine. And then
20 let's -- I know we've got Mr. Faulkenberg on the phone as
21 well for the Industrial Interveners. Is that right?

22 Anybody else, Mr. Moratzka, you want to
23 introduce?

24 Okay. Let's go ahead and do Pierre there.
25 Ms. Cremer, do you want to let us know who you have there

1 and who you have on the telephone?

2 MS. CREMER: Thank you, this is Karen Cremer
3 from Pierre with Staff. I have Terry Labrie Baker,
4 Tim Binder, Dave Jacobson, Jon Thurber, Bob Knadle, and
5 even though Rislov isn't with me I will mention that he's
6 here.

7 CHAIRMAN JOHNSON: Great. Thanks very much.

8 MS. CREMER: And on the phone we have
9 Dave Peterson and George Evans.

10 CHAIRMAN JOHNSON: Great. Thanks. With that, I
11 think we've got everybody introduced we need to have
12 introduced. And unless there's -- unless either of my
13 colleagues have some other issue, we will take up the
14 first question on today's agenda which deals with an
15 amendment to the contract of Chesapeake Regulatory
16 Consultants.

17 Ms. Cremer.

18 MS. CREMER: Thank you. I forgot to mention too
19 Cindy Kemnitz is also here with us today.

20 The first issue that is listed on the agenda is
21 shall the Commission approve the consultant contracts for
22 Chesapeake, and then the second deals with Slater.

23 And for Chesapeake Dave Jacobson has the details
24 of that, as does Cindy, and then for the Slater contract.
25 And then Dave Peterson is also on the phone from

1 Chesapeake if you have questions. And then for the
2 Slater contract it would be Jon Thurber and Cindy again.
3 And George Evans if you have questions in particular
4 about that.

5 So I will turn this over to Dave Jacobson.

6 MR. JACOBSON: Thank you.

7 CHAIRMAN JOHNSON: And, Mr. Jacobson -- go
8 ahead, Mr. Jacobson. Go ahead.

9 MR. JACOBSON: Yes. As the agenda describes, we
10 are requesting the ability to amend the contract up to
11 the amounts described on the agenda. And the primary
12 reason is that there is now a possibility that we are
13 facing a hearing that would last three weeks as opposed
14 to the original four-day hearing. I would stress that
15 these amounts are a maximum amount and that depending on
16 how the proceedings go, that the actual amounts billed
17 will depend on the extent of the proceedings and the work
18 that is forthcoming.

19 Could well be less -- total billings could well
20 be less than what is shown on here, but we are trying to
21 avoid further amendment to the contract.

22 CHAIRMAN JOHNSON: Thanks, Mr. Jacobson. Did
23 any other Intervener wish to address these two questions?

24 Hearing none, then we'll open it up to
25 Commissioner questions.

1 Mr. Jacobson, I would have one. It seems to me
2 that -- I mean, I understand the Chesapeake question.
3 They were originally at 66,000 and some change, and now
4 you all are asking to go up to \$90,000 plus.

5 I'm not sure I understand what you're asking for
6 with Slater. I think the original Commission approval
7 with Slater was 46,000. You're asking for a smaller
8 amount. Am I missing something?

9 MR. JACOBSON: One thing that -- these amounts
10 shown -- excuse me. The amounts requested are not the
11 total contract. They are additions to what has already
12 been agreed to. For instance, the Chesapeake original
13 contract, as you mentioned, was 66,000 and some. This
14 would be an additional 90,000 and some.

15 CHAIRMAN JOHNSON: I thought, Mr. Jacobson, that
16 when I had read the letter from Chesapeake they described
17 an additional 22,000. And so you added the 66 and the 22
18 and in one letter they had asked for 88,840 and the
19 second letter they asked for 87,840.

20 MR. JACOBSON: That is correct. That is
21 correct, Chairman. You are right. What the consultant
22 actually asked for was his estimate based on the
23 Commission approving the settlement at this point and no
24 further proceedings.

25 We as Staff went ahead and instead of just

1 relying on that number came up with our number, which
2 with the help of Cindy Kemnitz have determined that if we
3 go to full hearing, briefing, possible appeals and the
4 whole three-week hearing, preparation to hearing, and
5 everything, all costs included as best we could estimate
6 that, for instance, for Chesapeake in addition to the
7 original 66,000 we would need 90,000 plus more.

8 CHAIRMAN JOHNSON: Okay. So, in essence, I
9 mean, you're kind of asking us to ignore the two letters
10 from Chesapeake because you're coming at your math a
11 little bit differently than theirs.

12 MR. JACOBSON: That's correct.

13 CHAIRMAN JOHNSON: They're using an interim
14 step, and you're saying let's just kind of go to the end
15 here; we can always spend less if we don't need the
16 money?

17 MR. JACOBSON: That's correct.

18 CHAIRMAN JOHNSON: Thank you. Other
19 Commissioner questions?

20 COMMISSIONER HANSON: None from me. Thank you.

21 CHAIRMAN JOHNSON: Okay.

22 Hearing no further Commissioner questions, any
23 Commissioner discussion or action?

24 COMMISSIONER HANSON: I move for approval for
25 the contract with Chesapeake.

1 CHAIRMAN JOHNSON: Okay. A Motion has been made
2 to increase the Chesapeake contract by \$90,228 by
3 Commissioner Hanson.

4 Any discussion on the pending Motion?
5 Hearing none, we'll proceed to vote.
6 Hanson.

7 COMMISSIONER HANSON: Aye.

8 CHAIRMAN JOHNSON: Kolbeck.

9 COMMISSIONER KOLBECK: Aye.

10 CHAIRMAN JOHNSON: Johnson votes aye. That
11 Motion carries 3-0.

12 Is there any further action on these contracts?

13 I will move that the Commission approve the
14 amended contract with Slater Consulting in the amount of
15 \$25,453.

16 Any discussion on the pending Motion?

17 Hearing none, we'll proceed to vote.

18 Hanson.

19 COMMISSIONER HANSON: Aye.

20 CHAIRMAN JOHNSON: Kolbeck.

21 COMMISSIONER KOLBECK: Aye.

22 CHAIRMAN JOHNSON: Johnson votes aye. And the
23 Motion carries 3-0.

24 With that, we'll proceed to the final question
25 on our agenda today. It is shall the Commission grant

1 the Joint Motion of Black Hills Power and the Industrial
2 Interveners?

3 And at this time we will pause to see whether
4 the Interveners or Black Hills Power wishes to make
5 comments first.

6 MR. MAGNUSON: This is Lee Magnuson, outside
7 counsel for Black Hills Power. Before the Commission
8 today is the Joint Motion for Approval of Settlement
9 Stipulation between Black Hills Power and Black Hills
10 Industrial Interveners.

11 CHAIRMAN JOHNSON: Mr. Magnuson, I do apologize
12 for interrupting you. I just want to make clear to
13 everybody before we get going. At this point we are
14 broadcasting on the internet. The meeting rooms in
15 Mitchell and Pierre have not be closed. The information
16 filed specifically -- there was some information filed
17 confidential.

18 Obviously you're aware, but I'll just remind
19 everybody that if we could try to keep this meeting open
20 by asking questions in a general, nonnumber-specific way,
21 I think that serves the public interest.

22 If, of course, we need to ask specific questions
23 about specific confidential information, then you'll need
24 to ask that Ms. Axthelm and myself do what we can
25 technologically to try to clear the folks who are not

1 parties to the case.

2 So with that, my apologies. Go ahead and
3 proceed.

4 MR. MAGNUSON: Thank you very much because that
5 is exactly correct. The Joint Motion for Approval of
6 Settlement Stipulation has been filed with the PUC on a
7 nonconfidential basis. However, attached to and as part
8 of that Joint Motion is the confidential settlement
9 agreement between Black Hills Power, Inc., and Black
10 Hills Industrial Interveners.

11 So, generally speaking, Chairman Johnson,
12 Black Hills Power is here today requesting approval of
13 the Black Hills Power and Black Hills Industrial
14 Interveners settlement as a Contract with Deviations to
15 the Black Hills Power tariff and to include in the Order
16 that Black Hills Power should file a conforming tariff
17 schedule, the Contracts with Deviations pursuant to the
18 Administrative Rules within 30 days with the request that
19 the Contract with Deviations that would be filed within
20 30 days be filed on and treated as on a confidential
21 basis.

22 We would also request that the Order of this
23 Commission include a finding that the confidential
24 settlement agreement was just, reasonable, and in the
25 public interest.

1 And with that, we would just note that we are
2 available to answer any questions that might be posed.

3 CHAIRMAN JOHNSON: Let's go ahead and hear from
4 the Industrial Intervenors.

5 MR. MORATZKA: Thank you, Chair Johnson,
6 Commissioners. We appreciate, first of all, the
7 willingness to be flexible and allowing us to appear in
8 Mitchell. It's a little bit shorter drive. So I
9 appreciate the effort and the use of technology in this
10 hearing.

11 I'd also echo Mr. Magnuson's comments and note
12 that the settlement is the result of extensive
13 negotiations taking place over a five-month period. The
14 parties worked very, very hard, met in person in
15 Rapid City to go over different proposals, and we think
16 the result is fair and reasonable.

17 And I also don't have anything to add, unless
18 the Commissioners have questions.

19 CHAIRMAN JOHNSON: Okay. Of course, those are
20 the only two parties to the settlement, but let's pause
21 and see if any other parties to the case have comment.

22 The Residential Coalition?

23 MR. KHOROOSI: Thank you, Mr. Chairman.
24 Sam Khorooosi appearing on behalf of the Residential
25 Consumers Coalition.

1 We have no objection to the proposed joint
2 settlement Motion with the understanding, of course --
3 and I believe Mr. Magnuson would agree that we do not by
4 our -- by our lack of objection to this Motion waive any
5 issues that we would wish to present at the hearing on
6 the 28th.

7 CHAIRMAN JOHNSON: Okay. Commission Staff, any
8 comment?

9 MS. CREMER: Thank you. This is Karen Cremer of
10 Staff.

11 Staff would have no comment on the agreement
12 itself. I don't know if later you're going to ask for a
13 recommendation, and I could just give it at that time if
14 you do.

15 CHAIRMAN JOHNSON: Okay. Thank you. Let us
16 open it up to Commissioner questions then.

17 I have a few, and we'll dive in then. First so
18 that I can make sure my understanding of the issue is
19 right, I will -- Mr. Smith, I'll kind of explain to you
20 what I think the statutory framework is, and you tell me
21 to what extent I'm wrong.

22 It seems to me that there are two -- there are
23 two statutes that kind of come into play here. The
24 first, most applicable, is 49-34A-8.3, which explicitly
25 envisions a business development rate. I mean, that is

1 really the controlling statute in this kind of
2 proceeding. Okay. The standard there says has to be in
3 the public interest.

4 The second is more general, more broad,
5 49-34A-6, which indicates that all rates in effect under
6 control of the Commission -- or authority of the
7 Commission have to be just and reasonable. Does that
8 make sense? Am I missing anything?

9 MR. SMITH: No. I mean, that's the way I read
10 the law.

11 CHAIRMAN JOHNSON: Okay. So using those two as
12 kind of the basis for my thoughts, it seems to me that
13 there are two reasons we have these rates. I mean,
14 that's sort of a law, not a policy.

15 One is that large users bring certain economies
16 of scale. It costs less to provide them power per unit
17 than it does smaller users. And so having them charged
18 tariff rates in some cases can overcharge them for
19 their -- certainly their fixed costs. You know, they
20 overcontribute to the fixed costs of the utility. So
21 that's one reason.

22 The second reason is -- and I think this is more
23 implicit in the business development rate, and that is
24 that there can be positive benefits that accrue to all
25 rate payers by having robust business development. And

1 the flip side of that is that if there were going to be
2 negative impacts because of, you know, increasing rates,
3 that those detriments could be felt across a broad -- I
4 mean, beyond just a single customer class.

5 MR. SMITH: I believe that's the intent of
6 Section 8.3. That's my own belief. I wasn't here when
7 they passed it, but it would seem to be the purpose of
8 it.

9 CHAIRMAN JOHNSON: Okay. Well, Mr. Rislov, I
10 mean, that kind of -- is my understanding basically
11 right?

12 MR. RISLOV: That's correct. I think you
13 couldn't have stated it better as far as costs are
14 concerned and getting into the unit benefits.

15 CHAIRMAN JOHNSON: Okay. So now the reason I
16 ask those is that I agree with all of that -- and I know
17 I've taken a little bit of time to get here, but my next
18 few questions I think are going to be centered around
19 whether or not I think we've met those standards and met
20 any burden that the statute envisions.

21 So with that, can somebody remind me and for any
22 party, I mean, what's the -- I know there has been a
23 class cost of service study done. I know that it has
24 been referred to and referenced throughout application
25 materials. I know that it is not particularly recent.

1 So somebody remind me about the age of that study.

2 MR. WHITE: Well, the class cost of service
3 study is filed as part of the application. It is a cost
4 of service study that utilizes some fairly historic data
5 that was developed primarily in 1995, '94, '95 as part of
6 that rate case.

7 We have fairly large groups of customers in that
8 we're only allocating costs straight to four classes of
9 customers: The residential, the small general service,
10 the lighting, and the large general service and
11 industrial contract customers.

12 So what these contracts allow us to do is
13 provide some differentiation within a fairly large class
14 of customers. And I believe that these contracts that we
15 envision having will result in recognizing the economies
16 of scale of these large customers and their unique
17 service characteristics as well as their unique usage
18 characteristics.

19 CHAIRMAN JOHNSON: And that's what I guess I'm
20 trying to drive to. I mean, do we have -- the class cost
21 of service study really talked about the tariff rate, the
22 classes, so to speak.

23 MR. WHITE: Yes.

24 CHAIRMAN JOHNSON: I mean, do we have -- is
25 there any support, any evidentiary information, that

1 indicates that, yes, this rate, whatever the rate is, is
2 a fair rate because it more closely matches the costs
3 imposed by these users on the system?

4 I mean, philosophically it makes sense, but I'm
5 just curious about the actual evidence.

6 MR. WHITE: Because of the nature of the
7 negotiations, we utilized information with regard to each
8 customer. And we then looked at their usage
9 characteristics, the voltage level of their service,
10 their summer/winter peak contributions, and then, in
11 addition, their contributions to the community
12 betterment.

13 And certainly each of these customers is either
14 a major employer or a critical customer of the company.
15 And, in fact, they represent in the neighborhood of 9 or
16 10 percent of the local Black Hills Power.

17 We have more than likely not included specific
18 details about these customers' usage characteristics
19 within the record at this point. And we hesitate to do
20 that because it is generally considered proprietary
21 information by those customers not to be disclosed.

22 And so I would say that there is clear evidence
23 as to the nature of the customers and their importance to
24 us but not maybe the specific usage and revenue
25 characteristics on a customer-by-customer basis right now

1 in the record.

2 CHAIRMAN JOHNSON: Okay. Ms. Cremer, or anyone
3 from Staff, I presume that Staff has not been privy to
4 the kind of customer specific information Mr. White is
5 referring to. Is that right?

6 MR. KNADLE: This is Bob Knadle from Staff.
7 That would be correct. Staff wasn't involved in the
8 negotiations between the Industrials and Black Hills
9 Power in the settlement agreement.

10 CHAIRMAN JOHNSON: Okay. Okay. Normally it
11 seems to me when we talk about these Contracts with
12 Deviation it's not unusual for a Commissioner to ask
13 Staff, you know, has there been some contribution to the
14 system costs of these users?

15 I mean, and really part of that question -- the
16 unasked part of that question is to make sure that
17 there's not a subsidy.

18 I mean, Mr. Knadle, without seeing this
19 information, I mean, what confidence do we have that
20 these users are paying their own way?

21 MR. KNADLE: In the Staff settlement with the
22 company, which you're going to hear on the 28th, it does
23 have the division of the revenue deficiency among the
24 customer classes, and that's what the settlement
25 agreement is based on between the company and -- Staff

1 and the company. And that's what the tariff rates are
2 based on, that class cost of service revenue
3 responsibility.

4 So if there is a reduction in the revenue
5 responsibility, for example, for these large industrials,
6 that's going to be borne by these shareholders, not any
7 of the remaining customers. So that should satisfy your
8 concern and Staff's.

9 MR. WHITE: And I can indicate also that the
10 rates that are proposed in these Contracts with
11 Deviations do fully cover our fixed costs of service and
12 certainly in most instances all of our variable costs.

13 CHAIRMAN JOHNSON: Okay. So that sort of deals
14 with, again, there are two bases for these Contract with
15 Deviations. That sort of deals with the cost, I mean,
16 the economies of scale, so to speak.

17 Second one really deals more with the public
18 interest test as envisioned by the business development
19 rate. Do we have -- I mean, big picture, Mr. White, I
20 mean, clearly we know these are big users, and they are
21 important to the community. I don't think from a big
22 picture perspective anybody disputes that.

23 Do we have anything in the record, though, to
24 indicate that this rate is in the public interest?

25 MR. WHITE: I think what we can do is we can

1 give you an indication today that from the company's
2 perspective certainly it is in the public interest. The
3 nature of the customers that we serve in this class are
4 important to the overall revenue requirements of the
5 company.

6 As I mentioned, 9 to 10 percent of the revenue
7 requirements are supported by these customers and will
8 continue to be going forward.

9 Without these customers, if they were to go out
10 of business, there would be an expectation that those
11 costs would be recovered from other customers. So
12 certainly that standard supports it.

13 When you look at the nature of the manufacturing
14 customers, certainly the two saw mills are the ones that
15 have gone through some transition. The Neiman
16 Corporation has purchased the saw mill in Hill City and
17 also the one in Spearfish, both under certain duress to
18 those companies, and has reestablished those as quality,
19 ongoing manufacturing facilities.

20 When you look at the Homestake Mine, it was at
21 one point a 9 and a half million dollar customer of this
22 company, and they closed. And so they now are
23 rejuvenating that and working hard to find the future
24 benefits of that mine, which brings additional electric
25 load but hopefully brings significant influence in the

1 scientific community.

2 When I look to Rapid City Regional Hospital,
3 because of their nonprofit mission, they have been
4 willing to go into our small communities and buy up
5 hospitals and health care facilities. And because of the
6 centralization of that management function and the
7 administration, I think they are providing viable health
8 care in communities that may not have had that but for
9 the mission of Rapid City Regional Hospital.

10 They have 17 accounts that are combined under
11 our combined account billing service, something that is
12 fairly unique for a nongovernmental type organization.

13 And then Dakota Cement, they are a customer that
14 has worked very closely with us historically to utilize
15 off-peak service, which comes at a lower cost, reduces
16 our need for on-peak capacity requirements. They also
17 have had curtailment service in the summertime when
18 they've been in better economic situations.

19 They have seen particular challenge to their
20 sales because of the downturn in the economy the last
21 year or two. And so I believe personally that each of
22 these customers are contributing to their fixed costs and
23 the majority of the cases 100 percent of the variable
24 costs and that continuing to provide them the support
25 that makes their business viable is in the public

1 interest and should be supported by you as Commissioners.

2 CHAIRMAN JOHNSON: I think this situation's a
3 little bit complicated, perhaps only in my mind, because
4 normally these contracts are reviewed by the Commission
5 outside of a rate case proceeding. At least, you know,
6 in my six years of experience that's been the case.

7 So in that situation it's very easy to say, you
8 know, customers already have a rate. This contract is
9 not affecting the rate of any other customer in the
10 territory. So, clearly, they aren't related. I mean, if
11 there's a burden to be borne by this, it is clearly a
12 shareholder burden. There can be no other way for the
13 costs to be shifted.

14 In this situation we've got a rate case and
15 these contracts being pursued on parallel tracks. And I
16 think it does at least lead me to ask, well, I mean, had
17 these contracts been negotiated a little bit differently,
18 would that have changed the negotiations that the company
19 took sort of with the Staff, or were there some interplay
20 between the two.

21 And it seems to me the safest answer is to say,
22 no, what happened with these customers does not affect
23 any other customer in the service territory. That's a
24 lot easier to say outside of a rate case.

25 Is there a reason this is being done now as

1 opposed to 10 days after the final decision on the
2 pending rate case?

3 MR. WHITE: Well, this group of Industrial
4 customers, the mix of customers changes a bit from rate
5 case to rate case. But both in the 1995 rate case
6 settlement, which was approved by the Commission, and in
7 the 2006 rate case settlement, which was approved by the
8 Commission, this group of customers had Contract with
9 Deviations.

10 And what has historically been done is Staff
11 negotiates an overall revenue requirement, allocates it
12 to the customer classes and then the company is in a
13 position then to make decisions about how it deals with
14 specific Interveners like the Black Hills Industrial
15 consumers.

16 We have followed that same process once again in
17 this rate case. So I wouldn't say that this is unusual
18 to the process. And, in fact, if you're going to pursue
19 negotiated settlements with multiple parties, it almost
20 has to work this way.

21 CHAIRMAN JOHNSON: Sure. Well, and that is a
22 good reminder because you're right. This has been not
23 unusual for Black Hills Power. I was looking at the
24 other utility companies where it would be unusual. I
25 don't think I've had another rate case, either natural

1 gas or electric where this has been the norm, but you're
2 right. For your company it has been. Okay.

3 It doesn't appear as though this settlement is
4 contingent in any way upon the other settlement that's
5 been agreed to with Staff. I mean, is that appropriate?

6 MR. WHITE: Well, you had mentioned why is it
7 tied in to the rate case? Why wouldn't it be dealt with
8 outside of the rate case?

9 In effect, because we're willing to accept these
10 contracts with these customers, irregardless of how you
11 may decide on the settlement with Staff, it almost does
12 separate them.

13 And we have elected not to make the settlement
14 with the Industrials contingent upon a successful outcome
15 with the Staff because we do believe that these contracts
16 meet the public interest standard and are satisfactory to
17 the corporation at this point in time.

18 CHAIRMAN JOHNSON: Yeah. And I think the
19 difficulty in my mind comes in that -- you know, I mean,
20 let's presume that the ultimate outcome of the rate
21 case -- I mean, let's say the settlement's turned down,
22 we go to a full hearing, or maybe even a Circuit Court
23 ultimately determines that -- and I'll just pick a number
24 for argument's sake. 18 percent is the right number.
25 The Commission heard and allowing 12.7 as the base

1 increase, 18 is the right number.

2 It seems to me when we ask about just and
3 reasonable, which is a standard we've got to meet, don't
4 you think at least part of that interplay between what is
5 just and reasonable for these customers has at least
6 something to do with the increase that other customers
7 have?

8 I mean, there can be a separation there for the
9 economies of scale we're talking about, but doesn't there
10 need to be some comparison to make sure it's just and
11 reasonable?

12 MR. WHITE: I don't think so. Because they have
13 unique service characteristics. They have unique
14 business needs. They make a unique contribution to the
15 communities that we serve. And so, therefore, they stand
16 alone separate from the determination of the just and
17 reasonable rates that the Commission will consider when
18 you consider the settlement with Staff on June 28.

19 CHAIRMAN JOHNSON: What about, I mean, a rate of
20 return? I mean, one of the reasons the commissions care
21 so much about having an adequate return is that, I mean,
22 sure, you may be able to authorize a low rate but to a
23 certain extent everybody gains by having a utility
24 company that has a return high enough to be able to
25 attract the capital necessary to maintain a safe and

1 reliable system.

2 I mean, if all of this does indeed come out of
3 shareholders' pockets, is there any issue -- I mean, and
4 it's not confidential, but I think the blended return,
5 rate of return that has been agreed to with Staff is
6 something short of 8 and a half percent.

7 Clearly the practical application of this
8 Settlement Stipulation with Interveners is that it brings
9 that return down.

10 MR. WHITE: Slightly.

11 CHAIRMAN JOHNSON: Okay. Is there anything in
12 the record that would allow the Commission to say that
13 that rate of return is still adequate according to our
14 witnesses and according to your witnesses to be able to
15 attract adequate capital to run a safe and reliable
16 utility?

17 MR. WHITE: Well, to the extent that it
18 represents 9 to 10 percent of our business, that's where
19 the risk that we have is. The risk that we have is
20 greater in that these customers may reduce their loads
21 and impact our rate of return even more that way.

22 One of the considerations in the Staff
23 settlement is that we agree to a three-year rate freeze
24 on base rate increases. There are some provisions in
25 there for extraordinary circumstances where we could file

1 earlier than that, but generally what is provided for in
2 the settlement with Staff is that we have agreed to what
3 the company believes is an acceptable rate of return and
4 we believe we can operate our business successfully for
5 at least three more years without the need for a base
6 rate increase.

7 And so to a certain extent I appreciate your
8 concern for the return of the utility, but in these rate
9 cases we have to make a judgment about how successfully
10 we can operate our business, and both with this
11 settlement and with the settlement with Staff we're
12 confident that we can operate the business successfully,
13 continue to attract capital and provide quality services
14 to customers.

15 CHAIRMAN JOHNSON: Well, and obviously, as you
16 know, my interest is not -- or as you might suspect, my
17 interest is not just wanting to make sure that Black
18 Hills Power is well run. That is your job.

19 It just seems to me as we get into these debates
20 between various experts about what is a reasonable rate
21 of return, I mean, if we say this number, well, this is
22 the number below which you just can't go because this is
23 what they're entitled to and this is what they need to
24 have to be able to run their system properly. It seems
25 to me if we're cutting other deals which change that

1 number, I mean, that is insightful condition, that maybe
2 that X number isn't the magic number. And whether or not
3 that has any applicability on this, I don't know, but it
4 is insightful for the future perhaps.

5 So that's where my line of questioning is coming
6 from.

7 Go ahead.

8 MR. WHITE: Commissioner, there are many factors
9 that the utility needs to consider when it addresses a
10 settlement with any of the parties to a rate case. And
11 one of the important ones is rate of return. However,
12 there are other factors that come into play, and we're
13 comfortable that these settlements will work for us.

14 CHAIRMAN JOHNSON: It seems to me that there are
15 at least two things that people can initially think, that
16 I might initially think about settlements with large
17 Interveners that differ from tariff rates.

18 One is that, well, sure, you know, you get
19 treated differently because you're a big boy. And to
20 that I guess I would say, well, yeah, that is the truth.
21 That may be a rhetorical thing that people want to say,
22 but there are differences.

23 They're not treated better because they're
24 large. They're treated more fairly because their
25 costs do differ. I mean, there are economies of scale.

1 So that kind of popless rhetoric I would say, well,
2 you're right.

3 The other one that I think maybe bothers me a
4 little bit more long-term is you get a different deal
5 because you're an Intervener. And I wonder about the
6 long-term public interest. I mean, that's why doing
7 Contracts with Deviations outside of a rate case to me
8 has some benefits. Are we just setting ourselves up?

9 I mean, the next time there's a rate case are we
10 going to have 40 Interveners? I mean, help me -- help me
11 understand why it's not just because of Interveners that
12 this settlement makes sense.

13 MR. WHITE: Well, if you look at the history of
14 Black Hills Power, we had 11-year rates, and during that
15 period of time we had a significant number of Contracts
16 with Deviations that we entered into with customers so we
17 could meet their unique business needs and provide for
18 opportunities for them to change their load
19 characteristics to lower our costs. So it has been a
20 common practice of our utility to utilize Contracts with
21 Deviations outside of these rate cases.

22 What naturally happens is that when you have
23 those contracts with customers they need to be updated
24 when a rate case occurs. And what we have gone through
25 here with these customers is update their contracts. And

1 if we have another rate case, we'll update their
2 contracts again at that point in time.

3 It does not in any way for me mean that they've
4 gotten a special deal. They've gotten their contract
5 updated consistent with the new costs of the utility, and
6 those businesses need to respond to those costs.

7 CHAIRMAN JOHNSON: Because the bottom line --
8 correct me if I'm wrong, but the bottom line is that any
9 customer that would meet the standards under state law
10 for being eligible for a Contract with Deviation in the
11 public interest, large user or a business development
12 type issue, rates that would be just and reasonable if
13 they were indeed lower than tariff rates, anybody would
14 be able to have that conversation with Black Hills Power,
15 would be eligible to negotiate a contract with you, not
16 just those that have intervened in this proceeding.

17 MR. WHITE: That's right. And we have even
18 developed special tariffs that apply to one or two
19 customers in order to offer that same type of
20 characteristic like large demand curtailable service to
21 other customers.

22 So it's been our practice to be responsive to
23 our customer's needs, and we believe that the contracts
24 that are provided for in this settlement are responsive
25 to these particular customer's needs.

1 CHAIRMAN JOHNSON: During the 11-year period
2 between rate cases in what was it, '95?

3 MR. WHITE: Yes.

4 CHAIRMAN JOHNSON: Okay. About -- I don't need
5 an exact number. Can you give me an idea of how many
6 Contracts with Deviations were negotiated in that
7 interim, in that gap?

8 MR. WHITE: I would guess it would be maybe four
9 to six. But what was more unique was we developed
10 tariffs. And we developed the combined account billing
11 general service large schedule.

12 And I'm not sure how many customers are on that,
13 but it's, you know, 30 or 40 customers at least,
14 representing multiple accounts that provided discounts
15 that allow customers to combine their demand for certain
16 contract provisions.

17 And so we've been flexible in that way. We have
18 worked with customers when they have made load
19 characteristics where we have adjusted contract
20 capacities and those types of things. We meet with our
21 largest customers, about 300 of them annually, and
22 provide them with information about their usage, their
23 load characteristics, a discussion about what prices may
24 be going forward, comparisons, their historical data. So
25 there is that opportunity to be aware and learn.

1 Because we look at it as a partnership. And
2 your support for that partnership has been important to
3 us in our ability to meet our customers' needs.

4 CHAIRMAN JOHNSON: Okay. Thanks. My apologies
5 to my colleagues. I probably should have asked a few and
6 then let others hop in.

7 Commissioners Kolbeck, Hanson, questions?

8 COMMISSIONER KOLBECK: No.

9 CHAIRMAN JOHNSON: Probably sucked them all up.

10 COMMISSIONER KOLBECK: I think your questions
11 are right in line with mine making sure that this doesn't
12 affect any other rate case or customer bases, and I think
13 your questions are right on line.

14 CHAIRMAN JOHNSON: Okay.

15 COMMISSIONER HANSON: I'm fine, Mr. Chairman.
16 Thank you.

17 CHAIRMAN JOHNSON: Thanks.

18 Ms. Cremer, you indicated you believed you would
19 have a recommendation? Or that, rather, Staff would have
20 a recommendation?

21 MS. CREMER: Yes. Thank you.

22 Staff's review of the settlement indicates that
23 Staff's agreement that was reached with Black Hills Power
24 is in no way impacted by the approval of this settlement
25 agreement, and, therefore, we would recommend granting

1 the Joint Motion.

2 CHAIRMAN JOHNSON: Okay. Thank you. So I know,
3 Mr. White, this has been said a number of times, but I
4 just think I want to make it crystal clear because I do
5 think there's a lot of confusion surrounding this
6 decision not among those of us participating here but
7 around your general customer base.

8 MR. WHITE: Right.

9 CHAIRMAN JOHNSON: Is the Commission's decision
10 today on the settlement Stipulation -- does the
11 Commission's decision today in any way affect the rates
12 that any other customer would pay?

13 MR. WHITE: No.

14 CHAIRMAN JOHNSON: Okay. All right.
15 Mr. Rislov, Mr. Smith, do you have anything else to add
16 before the Commission --

17 MR. RISLOV: Excuse me, Commissioner. This is
18 Greg Rislov. And I have several I'd like to ask.

19 CHAIRMAN JOHNSON: Yeah. Go ahead, please.

20 MR. RISLOV: Kyle, I think you mentioned --
21 Mr. White, that is. Excuse me. You mentioned that there
22 was concern about, I believe, companies going out of
23 business.

24 Is there any -- I mean, have you done anything
25 that would indicate or make it appear that there's danger

1 of that? I mean, is there any history that you could
2 give us?

3 MR. WHITE: Well, I did mention the Homestake
4 Mining Company situation. We also serve surface gold
5 mining operations in the past. There was some concern
6 when Merillat announced the closing of their particle
7 board manufacturing plant in Rapid City, and we were
8 fortunate that an outside party came in and took over
9 ownership and operation of it and has now renamed it
10 Dakota Panel.

11 So even within this group I believe Pope and
12 Talbot, the saw mill that Neiman bought in Spearfish, was
13 in a bankruptcy situation. So there are instances when
14 businesses get into trouble, and at those points
15 utilities have to make a decision whether it's worthwhile
16 to get involved and cover fixed costs and provide some
17 support to that business or wait and see. And we've done
18 both in our history.

19 MR. RISLOV: Mr. White, you mentioned in the
20 past the Contract with Deviations. And, as you know, I
21 was on Staff at that point. And going back into the '80s
22 and the '90s I recall that there were just a handful of
23 businesses, six or seven, that represented approximately
24 I believe the number was 25 to 33 percent of your load;
25 is that correct?

1 MR. WHITE: That would be roughly correct. Our
2 Industrial customers represented about a third of our
3 total load at one point.

4 MR. RISLOV: And in that case, you know, just a
5 handful captured that large of number. In this case it
6 doesn't appear that these customers are quite that large.

7 I guess without giving anything away, are these
8 among the top 90 percent of your largest customers, or
9 could you give me some idea of what this group would
10 represent among your larger customers? Excuse me.

11 MR. WHITE: Right. There are five customers
12 represented and we checked this morning and all of them
13 would have purchases of energy in our top 10 customers
14 for size at Black Hills Power. So it is a representative
15 group, and it represents a high percentage of our large
16 industrial customers.

17 MR. RISLOV: And if you'll remember correctly,
18 there was a push by the State back in the late '80s,
19 early '90s with regard to economic development, and that
20 included employment. What type of employment are we
21 talking about with these companies?

22 I mean, how dramatic of an effect do they have
23 in the Black Hills with regard to the number of employees
24 that they have serving them?

25 MR. WHITE: Well, it would be a guess on my

1 part, but I would expect that they are approaching 3,000
2 employees or more.

3 MR. RISLOV: The combined effect of the five?

4 MR. WHITE: Yes.

5 MR. RISLOV: And I did -- I want to go the other
6 way a little bit. If the Commission didn't approve this,
7 who wins? Who loses?

8 MR. WHITE: Well, if the Commission didn't
9 approve this, I suspect that the Industrial customers
10 would want to pursue their rights at a longer hearing and
11 address the other settlement with Staff.

12 In our instance, if it's not approved, I think
13 both Black Hills Power and the Industrial consumers would
14 be losers because that's why we negotiated this
15 transaction is we both felt there were benefits to us in
16 doing so. No other customers would likely lose.

17 MR. RISLOV: That was too loose a question. Let
18 me try to frame that a little better. There is a
19 settlement sitting before the Commission that will have
20 to be ruled on after June 28.

21 If we presume that settlement will be accepted
22 by the Commission, notwithstanding, who would win and
23 who would lose if the Commission did not approve today's
24 settlement?

25 MR. WHITE: There would be no effect on the

1 customers that are not represented within this group, and
2 I -- as I stated earlier, this group of customers may or
3 may not lose, depending upon what the Commission did in
4 that settlement.

5 Most likely they would not have as favorable of
6 pricing and contract terms because they would be on our
7 general tariffs. And Black Hills Power most likely would
8 get a few more dollars of revenue from this class of
9 customers. But --

10 MR. RISLOV: In other words, the winner today if
11 the Commission doesn't approve this would be the
12 stockholders of Black Hills Power short term?

13 MR. WHITE: Yes.

14 MR. RISLOV: And that's the only winner short
15 term?

16 MR. WHITE: I agree.

17 MR. RISLOV: I guess I want to go one more
18 direction. And considering these are Contracts with
19 Deviations, these are your larger customers, you know,
20 we're comparing the numbers somewhat to the class cost of
21 service study.

22 And giving it some thought, I'm not necessarily
23 fully comfortable with that because Contracts with
24 Deviations can be negotiated apart from the rate case.
25 You could negotiate one next year with --

1 MR. WHITE: Yes.

2 MR. RISLOV: And so considering how large they
3 are and we understand that each represents a unique
4 class, that number, while an aggregate that we can see in
5 the case with regard to class cost of service study,
6 wouldn't necessarily be -- you can't really do the
7 addition and subtraction and necessarily come up with
8 what I would term to be an accurate result of perhaps a
9 negotiation of a Contract with Deviations a year down the
10 road, so to speak.

11 MR. WHITE: I agree.

12 MR. RISLOV: Okay. I just wanted to make sure
13 of that.

14 I think that's it. Thank you.

15 CHAIRMAN JOHNSON: This is Dusty Johnson. I
16 might have two more to add then. You mentioned,
17 Mr. White, your company's willingness in the past to make
18 new tariffs to fit unique characteristics of a customer
19 or some small number of customers.

20 Why doesn't having a super big industrial
21 customer tariff make more sense?

22 MR. WHITE: Well, because each of the customers
23 has unique load characteristics and business needs, and
24 when you have a generic tariff -- let's say our
25 industrial contract service tariff -- it may have price

1 points that don't fit the desires of the operations that
2 we're working with. It may not provide priceability that
3 they need in order to make advanced sales in those types
4 of things.

5 So what we have done is customize these
6 contracts and these negotiations, and that's been the
7 preference of our customers.

8 We have had industrial contracts or schedules
9 out there in the past. They've been set. They're
10 available for any new customer that may come in and build
11 a large facility for us. But it's been our customers'
12 preference since the early days when deregulation was
13 considered to get into a more contractual relationship
14 with our utility, similar to what they do with all their
15 other vendors of services.

16 CHAIRMAN JOHNSON: So we've got five large users
17 that are Interveners, but it sounds in your top 10 there
18 are also five that are not. I mean, if all rates need to
19 be fair and reasonable -- I'm sorry, just and reasonable,
20 I mean, what about the other five? I mean, the
21 Commission -- they're not getting a different deal.

22 MR. WHITE: Well, the top 10 that I referred to
23 is by energy. And some of those customers have multiple
24 and maybe 100 or more different locations that are being
25 aggregated to come up with that amount.

1 What we have represented here are large
2 customers with one, two, three main points of location
3 that are large. And so the service characteristics are
4 different than what you'll find with some of the rest of
5 those customers.

6 CHAIRMAN JOHNSON: I see. There was business X
7 that had 10 locations scattered throughout 10 of your
8 towns on your service territory.

9 MR. WHITE: Right.

10 CHAIRMAN JOHNSON: It would be fair to look at
11 those a little differently than one large factory?

12 MR. WHITE: Yes.

13 MS. AXTHELM: Dusty, I would like to make a
14 reminder to those people that are on the telephone if
15 they could mute their phones. We're getting feedback
16 from a phone.

17 CHAIRMAN JOHNSON: Looking at the top 10,
18 Mr. White, because you brought it up, I mean, are there
19 some of the top five that are not Interveners but do look
20 and feel a whole lot like the five we're talking about?
21 Just trying to make sure --

22 MR. WHITE: We haven't made a review of that.

23 CHAIRMAN JOHNSON: And here's why I'm asking.
24 If you had two identical customers, one of which was an
25 Intervener in this proceeding, one of which was not, to

1 have them paying different rates would be difficult for
2 me to explain how that's just and reasonable. And so
3 what I'm trying to do is determine -- I want to make sure
4 that there are no like products among --

5 MR. WHITE: Right. Well, if we go through
6 these, we only have one manufacturer of cement. They're
7 represented. The largest forest products services are
8 all represented and Dakota Panel and the two Neiman saw
9 mills. Rapid City Regional Hospital is the only major
10 nonprofit medical employer in the region.

11 And then when you look to the Sanford Lab,
12 Homestake, they're the only one scientific community, and
13 they were already under the contract to try to encourage
14 the development of that business and the benefits that it
15 could bring to the Black Hills. So I would say that
16 segmentation-wise we've picked up everybody that
17 represents those particular business classifications.

18 CHAIRMAN JOHNSON: So, of course, unique is an
19 overused word, but you would say that at least from the
20 public interest standard, sort of the business
21 development rationale, these are unique -- I mean,
22 there's nobody quite like them -- and that they are
23 nearly unique with regard to the amount of energy they
24 are using?

25 MR. WHITE: Yes.

1 CHAIRMAN JOHNSON: Okay. Any other questions or
2 comments?

3 MR. SMITH: One last one for me. And there's --
4 nothing would preclude should another large customer come
5 to town or if one out there because of its particular
6 characteristics, you know, business climate and so on
7 approached Black Hills, there's nothing in any of these
8 settlements that would preclude you from negotiating
9 under the business development a contract with them and
10 bringing it before the Commission?

11 MR. WHITE: No. That's the purpose of why we
12 proposed that business development tariff and supported
13 the statute that backs it up was to give us that
14 opportunity and flexibility to compete for new customers
15 in our service territory, to help with economic
16 development, and to accommodate business needs to enhance
17 the businesses that we already serve.

18 But there is a set of characteristics that need
19 to be applied. And we will work with customers if there
20 is a good reason to do so.

21 CHAIRMAN JOHNSON: Other questions?

22 MR. SMITH: Kyle, you know, Dusty brought up the
23 record issue. Would it be objectionable to Black Hills
24 if the Chairman has the authority under the law to
25 administer an oath, would it be -- do you want to do

1 that?

2 CHAIRMAN JOHNSON: I don't. Mr. Smith and I had
3 talked about that as a side bar. I'm sorry to interrupt.
4 Do you mind?

5 MR. SMITH: No.

6 CHAIRMAN JOHNSON: I am a little nervous -- not
7 a little nervous. I'm a lot -- I'm uncomfortable with
8 the fact that we do have some statutory standard that I
9 think we need to meet. You've made some very good
10 representations today that I think have gone a long ways
11 to explaining how those standards could be met.

12 I know Mr. Smith mentioned that swearing you
13 under oath right now would be an option. I think it
14 might be cleaner if the Commission were going to make an
15 approval of the settlement stipulation, that would be
16 contingent upon the filing of an Affidavit by you in
17 support of your comments made today.

18 MR. WHITE: I'd be happy to do that.

19 CHAIRMAN JOHNSON: I want you to be able to go
20 back, take a look at what you said, and make sure that if
21 you need to make any clarifications in your Affidavit,
22 you make those.

23 MR. WHITE: Okay.

24 CHAIRMAN JOHNSON: Mr. Smith, that works
25 legally?

1 MR. SMITH: I think so, yes.

2 CHAIRMAN JOHNSON: I do think in the relatively
3 thin filing that was made before this Commission there's
4 not a lot that would indicate that the rate is just and
5 reasonable or in the public interest.

6 Again, you've explained why you believe those
7 standards have been met. So let's get it in the
8 record.

9 MR. WHITE: Okay.

10 CHAIRMAN JOHNSON: Other Commissioner or advisor
11 comments or questions?

12 MR. RISLOV: This is Greg Rislov again. And I
13 don't -- I don't know if this is going to be a question,
14 but I do want to go back again to the thought that we've
15 been approving Contracts with Deviations for many, many
16 years for every company, as a matter of fact.

17 But, Kyle, Mr. White, touched upon some of the
18 societal benefits related to the Black Hills. But the
19 one thing I really want to emphasize is that because
20 Black Hills is somewhat unique compared to the other
21 electric companies in South Dakota where such a large
22 portion of their load is served by such a small number of
23 customers, there's a certain sensitivity toward
24 maintaining those businesses in the Black Hills simply
25 because they do employ so many people.

1 It's been a big issue before other
2 Commissioners. And I understand it's been 15 and
3 20 years ago and you three weren't here, but it has been
4 an issue.

5 And I guess bottom line, we were sold on the
6 fact -- some of it coming from here, some of it coming
7 from there -- that the benefit to the Black Hills would
8 not just accrue to these large users. That keeping these
9 businesses online was critical to keep those average
10 costs down for the residential and small commercial
11 users. And because a lot of those businesses appear to
12 go through cycles, there was concern that they be able to
13 operate successfully over a long period of time.

14 I guess that was my point. We can talk about
15 societal benefits, but it's critical in a class cost to
16 service basis that those numbers stay there in order to
17 average those costs down.

18 Now I'm not trying to necessarily speak in
19 support of what the company's done, but I do want to
20 point out the rationale the Commissioners did use in the
21 past when reviewing these Contracts with Deviations for
22 what is a unique service territory out in the
23 Black Hills.

24 Thank you.

25 CHAIRMAN JOHNSON: Thank you, Mr. Rislov. Other

1 comments or questions?

2 Any Commission action?

3 COMMISSIONER KOLBECK: This is Commissioner
4 Kolbeck. I'm very confident that Staff and the
5 Interveners have come to a good conclusion over the last
6 five and a half months as was stated, and I'll Motion
7 that we approve the Settlement Stipulation.

8 CHAIRMAN JOHNSON: Okay. If I could offer a
9 friendly amendment, Commissioner Kolbeck, I would feel
10 more comfortable voting for the Motion if it was
11 conditional upon an Affidavit being filed by Mr. White in
12 support of his comments today.

13 COMMISSIONER KOLBECK: Yes. As soon as you
14 finish -- yep. That's good. I would consider that
15 friendly and accept the amendment.

16 CHAIRMAN JOHNSON: Okay. So, again, the Motion
17 for the Commission is to approve the settlement between
18 the Black Hills Industrial Interveners and Black Hills
19 Power. Those are the only two parties to the agreement.
20 Although no other Intervener in the proceeding has
21 objected to that agreement.

22 We've got a Motion pending. Is there any
23 discussion on the pending Motion?

24 COMMISSIONER HANSON: Mr. Chairman, can you hear
25 me all right?

1 CHAIRMAN JOHNSON: Yes, I can, Commissioner. Go
2 ahead.

3 COMMISSIONER HANSON: I apologize. I have about
4 a 5-second delay so I -- you don't hear me immediately,
5 and I hear myself as I'm speaking so I apologize for
6 that.

7 My only statement would be that I have the same
8 concerns as you did. I primarily was concerned with two
9 portions that you covered very, very well, and that is I
10 do not wish to imply by the Commission's actions that
11 you -- residential consumer rates speak greater than the
12 rates we approved for the Industrial customers simply
13 because of discussion that has transpired here today,
14 especially pertaining to the economies of scale for the
15 Industrial customers.

16 I also wish to be -- to be understood that our
17 action will not effectively influence or dictate the rate
18 for residential customers. And I truly believe, however,
19 that when a customer freely negotiates an acceptable rate
20 with a utility company that does not affect rates of
21 other classes, then frankly, I see absolutely no reason
22 to oppose it. And for that reason I'll be supporting the
23 Motion.

24 Thank you.

25 CHAIRMAN JOHNSON: Thank you, Commissioner.

1 Yeah. Well said.

2 Any further discussion on the pending Motion?

3 Hearing none, we'll proceed to vote.

4 Hanson.

5 COMMISSIONER HANSON: Aye.

6 CHAIRMAN JOHNSON: Kolbeck.

7 COMMISSIONER KOLBECK: Aye.

8 CHAIRMAN JOHNSON: Johnson votes aye, and the
9 Motion carries 3-0.

10 I believe that's all the business to come before
11 the Commission today. Am I in error?

12 Hearing no comments, is there a Motion to
13 adjourn?

14 COMMISSIONER KOLBECK: So moved to adjourn.

15 CHAIRMAN JOHNSON: With that, we'll proceed to
16 vote on the Motion to adjourn.

17 Hanson.

18 COMMISSIONER HANSON: Aye.

19 CHAIRMAN JOHNSON: Kolbeck.

20 COMMISSIONER KOLBECK: Aye.

21 CHAIRMAN JOHNSON: Johnson votes aye. The
22 Motion carries 3-0. Thanks everyone. Have a good day.

23 (The hearing is concluded at 2:03 p.m.)

24

25

1 STATE OF SOUTH DAKOTA)

2 :SS

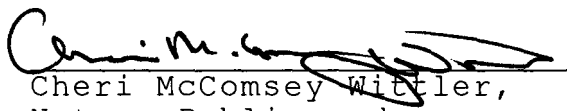
CERTIFICATE

3 COUNTY OF SULLY)

4
5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 10th day of June,
11 2010, and that the attached is a true and correct
12 transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 21st day of
14 June, 2010.

15
16
17 

18 Cheri McComsey Wittler,
19 Notary Public and
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
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