

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

<b>IN THE MATTER OF THE</b>	)	
<b>APPLICATION OF BLACK HILLS</b>	)	<b>Docket No. EL09-018</b>
<b>POWER, INC., FOR AUTHORITY TO</b>	)	
<b>INCREASE ITS ELECTRIC RATES</b>	)	
	)	

**STIPULATED SUMMARY OF UNCONTROVERTED FACTS**

Come now Black Hills Power, Inc. (“BHP” or “Company”), the Staff of the South Dakota Public Utilities Commission (“Staff”) and three individual consumers and the South Dakota Peace and Justice (collectively “Residential Consumers Coalition” or “RCC”) and submit this Stipulated Summary of Uncontroverted Facts as required by the Procedural Order Regarding Pre-Hearing Matters dated June 8, 2010.

**Uncontroverted Facts**

BHP, Staff and RCC do hereby stipulate that the following facts are uncontroverted:

1. The legal name of BHP is Black Hills Power, Inc., which has its principal place of business in Rapid City, South Dakota. BHP is a corporation, organized on August 27, 1941, under the laws of South Dakota.
2. BHP provides electric service to retail customers in South Dakota, Wyoming and Montana.

3. BHP is a public utility in the State of South Dakota and is subject to the Commission's jurisdiction with respect to its prices and terms of electric service to retail customers in South Dakota.
4. BHP filed the above docketed application on September 30, 2009, ("Application") requesting authority to increase its electric utility service rates to its customers in its South Dakota service territory. The proposed changes would affect the billings of approximately 64,100 customers in South Dakota. The effective date of the proposed changes was proposed in the Application to be the in-service date of Black Hills Power's Wygen III power plant, which was expected to be April 1, 2010, but no earlier than March 1, 2010.
5. Wygen III is an air cooled, coal fired power plant with an approximate 100 to 110 MW net generating capacity. Wygen III is located at the Neil Simpson Energy Complex approximately eight miles east of Gillette, Wyoming. Construction on Wygen III began in March 2008 and was completed and certified by BHP to be in-service on April 1, 2010. The final cost of Wygen III was \$244,640,251, of which BHP's 52% ownership interest is \$127,212,931.
6. Since Wygen III was to be constructed in the State of Wyoming, BHP filed an application for a certificate of Public Convenience and Necessity ("CPCN") with the Wyoming Public Service Commission prior to

commencement of construction. The Wyoming Public Service Commission reviewed the application, conducted a hearing, and issued an order in March 2008 that granted BHP a CPCN.

7. BHP has submitted in its Application that it will have a 52 percent ownership interest in Wygen III.
8. By Order dated November 3, 2009, the South Dakota Public Utilities Commission (“Commission”) suspended the imposition of the tariff proposed in the Application for 180 days beyond September 30, 2009.
9. Countertops, Inc., d/b/a Dakota Panel South Dakota, GCC Dacotah, Inc., Rushmore Forest Products, Inc., Sanford Underground Laboratory and Spearfish Forest Products, Inc. filed a petition to intervene and Rapid City Regional Hospital petitioned to join said businesses (collectively Black Hills Industrial Intervenors or “BHII”).
10. Liliias Jarding, Bobbie Handley, Carla Kock, and the South Dakota Peace and Justice Center (as noted above, referred to herein as “RCC”) timely filed a petition to intervene.
11. At its November 24, 2009, meeting, the Commission granted intervention to all petitioning parties.
12. At its March 9, 2010, meeting, the Commission allowed BHP to implement interim rates on April 1, 2010.

13. Staff, RCC, BHII and BHP have engaged in extensive discovery since the filing of the Application on September 30, 2009.
14. BHP and RCC engaged in settlement conferences to discuss the issues in this case and to address possible resolution of the issues raised, but such conferences did not result in a settlement.
15. On April 29, 2010, RCC timely filed the pre-filed testimony of Don Frankenfeld, David Schlissel and Christopher A. James.
16. BHP and Staff engaged in settlement conferences to discuss the issues in this case and to address possible resolution of the issues raised, and were able to resolve their issues. On May 14, 2010, Staff and BHP filed a Joint Motion for Approval of Settlement Stipulation, which included an attached Settlement Stipulation and exhibits.
17. On May 14, 2010, Staff filed its Staff Memorandum Supporting Settlement Stipulation (“Staff Memorandum”) in both a Public Version and Confidential Version.
18. On May 19, 2010, RCC filed its Brief in Opposition to Joint Motion for Approval of Settlement Stipulation.
19. On June 1, 2010, the Commission voted unanimously that the issue to be determined at the hearing commencing on June 28, 2010, shall be whether the rates, terms and conditions set forth in the Stipulation are just and reasonable in accordance with the standards set forth in SDCL 49-34A-8.

20. BHP and BHII engaged in settlement conferences to discuss possible resolution of the issues. On May 28, 2010, BHII and BHP filed a Joint Motion for Approval of Settlement Stipulation and Confidential Settlement Agreement, and on June 10, 2010, the Commission held a hearing on said Joint Motion. RCC did not object to the Joint Motion. The Commission approved the Settlement Stipulation between BHII and BHP on June 10, 2010.
21. On June 4, 2010, BHP timely filed the rebuttal testimony of William Avera, Doug Buresh, and Jill Tietjen.
22. On June 4, 2010, Staff timely filed the rebuttal testimony of George W. Evans.
23. It is the contention of RCC that BHP cannot meet its burden of showing that it is just and reasonable to include Wygen III in BHP's rate base, and presents the testimony of David Schlissel and Christopher James in support of that contention.
24. It is the contention of RCC that the return on equity agreed to by Staff and BHP in the Stipulation is too high and that the capital structure set forth in the Stipulation is not appropriate, and presents the testimony of Don Frankenfeld in support of that contention.

## Uncontroverted Facts Subject To Condition

### Introduction:

Without waiving its contentions as set forth in Paragraphs 23 and 24 above, and subject to those contentions, RCC does not and will not contest at hearing that the facts set forth in the following Paragraphs 101 to 104 are uncontroverted. Therefore, and subject to RCC's right to present evidence at hearing in support of its contentions set forth in Paragraphs 23 and 24 above, RCC, BHP and Staff hereby stipulate that the following facts set forth in Paragraphs 101 to 104 are uncontroverted:

101. For purposes of determining the revenue requirement, the depreciable life of Wygen III shall be 50 years.
102. BHP may establish a major maintenance account and, consistent with the rules of FASB 71, establish a regulatory liability for steam plant maintenance.
103. Pursuant to SDCL 49-34A-25, BHP may utilize rate schedules containing provisions for automatic adjustment clauses for public utility service for the recovery of costs related to fuel, purchased power and transmission. BHP may use two adjustment clauses, as follows:
  - A. Transmission Cost Adjustment (TCA), which is set forth in Exhibit 2 to the Stipulation.
  - B. Fuel and Purchased Power Adjustment (FPPA), which is set forth in Exhibit 3 to the Stipulation.

104. BHP may recover expenses for vegetation management with the provision that expenses remain at or above the South Dakota per books amount of \$1,064,963, on average, for the period rates are in effect. If the average is below the South Dakota test year amount at the time that BHP files its next application for an increase in rates, BHP will make an adjustment to reflect this commitment.

DATED this 17<sup>th</sup> day of June, 2010.

BLACK HILLS POWER, INC.

By: [Signature]  
Its: Attorney

RCC

By: [Signature]  
Its: Attorney

SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION STAFF

By: Karen E. Bremer  
Its: staff attorney