

**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)
)**

Docket No. EL09-018

**BLACK HILLS POWER, INC.’S SUMMARY OF
REMAINING ISSUES OF FACT AND LAW**

Black Hills Power, Inc. (“BHP”) hereby submits its Summary of Remaining Issues of Fact and Law pursuant to Item 1.C. of the Procedural Order Regarding Pre-Hearing Matters dated June 8, 2010.

Issue for Hearing

BHP and the Staff of the South Dakota Public Utilities Commission (“Commission Staff”) have been able to resolve all of the issues in this proceeding and have entered into a Settlement Stipulation (“Stipulation”) which, if accepted and ordered by the South Dakota Public Utilities Commission (“Commission”), will determine the rates to result from BHP’s application (“Application”) that was filed with the Commission on September 30, 2009.

The issue for hearing is whether there is substantial evidence on the record as a whole that the Stipulation establishes just and reasonable rates, giving due consideration to the criteria set forth in SDCL 49-34A-8 for determination of rates, and the Commission should either approve and adopt the Stipulation or reject the Stipulation, in which event the parties will, at a later time, proceed to hearing on the Application.

Issues for Hearing Identified by RCC

Lilias Jarding, Bobbie Handley, Carla Kock, and the South Dakota Peace and Justice Center (collectively “RCC”) have not settled with BHP and have objected to the Stipulation of BHP and Commission Staff. There are several issues raised by RCC either through their pleadings or through the pre-filed testimony of RCC, as follows:

General Issues Identified by RCC:

1. It is the contention of RCC that it is neither just nor reasonable to include Wygen III in BHP’s rate base.
2. 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.

Source: RCC’s Brief in Opposition to Joint Motion for Approval of Settlement Stipulation, filed on May 19, 2010.

Specific Issues Identified by RCC:

While RCC will set forth in its filing with the Commission what it believes the issues to be, BHP will set forth below what it understands to be the issues of RCC:

1. Whether BHP used reasonable estimated CO2 prices in its Integrated Resources Plan (“IRP”) that adequately considered the benefits/risks of building a coal fired generation plant.
2. Given the projected load growth for BHP’s customers and the projected retirements of certain of BHP’s generation units, whether it was reasonable

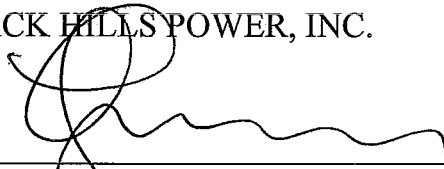
for BHP to build Wygen III to meet the ongoing and future needs of its customers.

3. Whether the implementation of cost-effective energy efficiency measures by BHP would have eliminated the need for Wygen III.
4. Whether the return on equity and capital structure agreed to by BHP and Commission Staff in the Stipulation results in just and reasonable rates.

Respectfully submitted this 17th day of June, 2010.

BLACK HILLS POWER, INC.

By _____


Mr. Lee A. Magnuson
Lynn, Jackson, Shultz & Lebrun, P.C.
110 N. Minnesota Ave., Suite 400
P.O. Box 2700
Sioux Falls, SD 57101-2700
605-332-5999 – phone
605-332-4249 – facsimile
lmagnuson@lynnjackson.com

Todd L. Brink
Senior Counsel - Black Hills Corporation
625 Ninth Street
Rapid City, SD 57701
(605)721-2516
tbrink@blackhillscorp.com