

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

**BLACK HILLS POWER, INC. d/b/a BLACK)
HILLS ENERGY'S APPLICATION FOR)
ADJUSTMENT IN ITS COGENERATION) Docket EL16-042
AND SMALL POWER PRODUCTION)
SERVICE SIMULTANEOUS NET BILLING)
GENERATION CREDIT RATE(S))**

PETITION FOR CONFIDENTIAL TREATMENT OF INFORMATION

Black Hills Power, Inc. d/b/a Black Hills Energy ("Black Hills" or "Company"), a South Dakota corporation, respectfully requests approval of the confidential treatment for the below identified information pursuant to Administrative Rules of South Dakota (ARSD) § 20:10:01:41.

1. Black Hills requests confidential protection and treatment of the confidential portions of the attachments to data request response numbers 1-18 and 1-19 filed on January 20, 2017. The attachments were filed confidentially as they contain fuel forecasts as well as market prices received under its subscription with ABB Enterprise Software, Inc. ("ABB"). Black Hills has received permission from ABB Enterprise to disclose this information to the South Dakota Public Utilities Commission with the following disclaimer:

The information in the Advisors Service Product, including, but not limited to, the energy price forecast and the methodologies used in its development and derivatives thereof, is provided on an as-is basis without warranty, and constitute and contain valuable trade secret information of ABB Enterprise Software Inc. ("ABB"). Disclosure of any information contained in this product and related materials by the Company named above ("Third Party") to anyone other than employees of the Third Party ("Unauthorized Persons") is prohibited unless authorized in writing by ABB. Third Party will take all necessary precautions to prevent this report from being available to Unauthorized Persons, as defined above, and will instruct and make arrangements with its employees to prevent any unauthorized access or unauthorized use of this report. Third Party will not lend, sell or otherwise transfer this report (or parts thereof) to any Unauthorized Persons, as defined above, without ABB's written approval.

2. On February 13, 2016, Mr. Richard Bell filed a Petition to Intervene in the docket in order to review the foundation on which Black Hills based its request to reduce the Generation Credit Rate.

3. At the February 28, 2017 hearing, the Commission granted Mr. Bell's Petition to Intervene.

4. Mr. Bell has contacted Black Hills requesting to review the confidential documents filed in Black Hills' data responses. Black Hills has agreed that Mr. Bell may review the confidential information provided he executes the Company's Non-Disclosure Agreement, attached hereto as "Exhibit A".

5. Mr. Bell has informed Black Hills that he will not agree to the Non-Disclosure Agreement, because it would require Mr. Bell "not to use the Confidential Information for any purpose other than in connection with the Docket."

6. Black Hills is under an obligation to protect ABB's trade secret information pursuant to an Agreement dated August 31, 2016 between Black Hills and ABB. Additionally, the confidential attachments contain proprietary business information that Black Hills does not disclose to the public. This information would provide third parties with information concerning costs of electric energy, electric resources and other information that could affect the competitive procurement of electric energy and electric generation resources.

7. The claim for protection is based on ARSD § 20:10:01:39(4) and SDCL § 37-29-1(4). The information contained within the confidential portions of this report meets the definition of "trade secret" under SDCL § 37-29-1(4), the South Dakota Uniform Trade Secret Act, which defines the term as follows:

(4) "Trade secret," information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

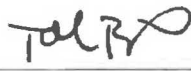
(ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

8. Accordingly, Black Hills respectfully requests that the Commission authorize confidential protection and treatment of the attachments to Responses 1-18 and 1-19 of Black Hills Power, Inc.'s Response to Staff's First Data Requests. Black Hills respectfully requests that such protection include a requirement that third-parties receiving confidential information execute a Non-Disclosure Agreement limiting the use of confidential information beyond what is necessary for the purposes of this docket.

9. The information for which confidential treatment is requested has been marked "CONFIDENTIAL" and has been transmitted electronically as separate confidential documents in response to Data Requests 1-18 and 1-19.

Dated this 3rd day of March, 2017.

BLACK HILLS POWER, INC

By: 

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