

**BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF STAFF’S REQUEST )  
TO INVESTIGATE THE TAX CUTS AND )  
JOBS ACT ON SOUTH DAKOTA ) Docket No. GE17-003  
UTILITIES )**

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**BLACK HILLS POWER, INC. d/b/a BLACK HILLS ENERGY’S COMMENTS  
REGARDING THE GENERAL EFFECTS OF THE TAX CUTS AND JOBS ACT**

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Black Hills Power, Inc. d/b/a Black Hills Energy (“Black Hills” or the “Company”), a South Dakota corporation, hereby provides the following comments regarding the general effects of The Tax Cuts and Jobs Act (the “Act”).

**BACKGROUND**

On December 21, 2017, the South Dakota Public Utilities Commission (the “Commission”) received a filing from Commission Staff (“Staff”) requesting a docket be opened to investigate the Act on South Dakota utilities. On December 29, 2017, the Commission considered this matter and ordered Black Hills, along with other South Dakota utilities, to file initial comments by February 1, 2018, regarding the general effects of the Act on the utility’s cost of service in South Dakota and possible mechanisms for adjusting rates.

**SUMMARY OF THE ACT**

The Act was signed into law on December 22, 2017. Key provisions within the Act that impact Black Hills operations are the reduction in corporate tax rate from 35% to 21%, effective January 1, 2018, and the normalization provisions that govern the refund of excess Accumulated Deferred Income Tax (“ADIT”) that result from the change in the corporate tax rate. The excess ADIT is recorded to a regulatory liability as of December 31, 2017. Security and Exchange Commission (“SEC”) Staff Accounting Bulletin No. 118 was issued shortly after the passage of the Act and provides a one-year time frame to make changes for the accounting under ASC740 for the Act due to subsequent information or changes in facts not known at the reporting date.

Therefore, the regulatory liability established for Black Hills as of December 31, 2017 may change. Other provisions within the Act such as 100% expensing for assets and limitations on interest deductibility do not apply to Black Hills as specifically stated in the Act.

## **IMPACT OF THE ACT ON BLACK HILLS' COST OF SERVICE AND AUTHORIZED MECHANISMS**

- **Excess ADIT:** Normalization rules prescribe the mechanism to refund the excess ADIT that result from the 35% to 21% corporate tax rate reduction. The methodology required in the law is known as the Average Rate Assumption Method (“ARAM”) described in Section 1561(d)(1) of the Internal Revenue Code, as amended by the Act. In essence, the calculation is made as of the beginning of the year in which timing differences in the vintage account begin to reverse; that is, the first year in which the tax depreciation taken with respect to the vintage account is less than the amount of depreciation reflected in the regulated books of account computed on a straight-line basis. Thus, under ARAM, the excess ADIT pertaining to a particular vintage or vintage account are not flowed-through to customers until such time as the timing differences in the particular vintage account reverse. This amortization will further decrease Black Hills’ income tax expense, but the amount of such additional decrease has yet to be determined. The amortization of excess ADIT, as of December 31, 2017, associated with items, not expressly subject to ARAM, is also being reviewed. Black Hills will not begin the amortization of excess ADIT until further analysis is completed and agreement is reached with Commission Staff.
- **Flow-Through Accounting:** Black Hills’ flow-through accounting for repairs deductions does not change as a result of the Act.
- **Jurisdictional Income Tax Expense:** The revenue requirement impact resulting directly from the decline in the marginal statutory rate from 35% to 21% is being evaluated and will be captured as of January 1, 2018. Though the precise impact is presently being evaluated, the reduction in income tax expense will be beneficial for Black Hills’ customers.

- **Statement R – Purchases from Affiliated Companies:** Black Hills is evaluating the extent to which the Act produces any change in costs or revenues related to affiliated business transactions.
- **FERC Common Use System (“CUS”) Rider:** Black Hills is evaluating if any modifications are required to its FERC CUS Rider to accurately deliver tax benefits to its customers.
- **Energy Cost Adjustment (“ECA”):** Black Hills is evaluating if any modifications are required to the ECA to accurately deliver tax benefits to its customers.
- **Energy Efficiency Solutions Adjustment (“EESA”):** Black Hills is still evaluating if any modifications are required to the EESA to accurately deliver tax benefits to its customers.

## COMPANY CONTACTS

The Company will be represented in this proceeding by the following persons. Correspondence regarding this proceeding should be directed to the following:

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**RESPECTFULLY SUBMITTED** this 31<sup>st</sup> day of January 2018.

By:   
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 Jason S. Keil  
 Manager - Regulatory