

APPENDIX

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Excerpt of Oral Argument Transcript (before the Circuit Court) (Nov. 23, 2015)	A-2
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1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
 2) :SS
 2 COUNTY OF HUGHES) SIXTH JUDICIAL CIRCUIT
 3 * * * * *
 4)
 4 IN THE MATTER OF THE)
 5 APPLICATION OF BLACK HILLS)
 5 POWER, INC., FOR AUTHORITY) File No. 15-146
 6 TO INCREASE ITS ELECTRIC)
 6 RATES) ORAL ARGUMENT
 7)
 7)
 8)
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 10 BEFORE: HONORABLE MARK BARNETT
 11
 11 Pierre, South Dakota
 12
 12 November 23, 2015
 13
 13 commencing at 1:30 P.M.
 14

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 17 APPEARANCES:
 18

19 FOR THE STATE: Mr. Andrew P. Moratzka
 20 Stoel Rives LLP
 20 33 South Sixth Street, Suite 4200
 21 Minneapolis MN 55402
 22
 22 Mr. Chad T. Marriott
 22 Stoel Rives LLP
 23 900 SW Fifth Ave, Suite 2600
 23 Portland OR 97204
 24
 24 Mark A. Moreno
 25 Moreno, Lee & Bachand, P.C.
 25 206 W. Missouri Ave.
 25 PO Box 1174

Pierre, SD 57501

FOR THE DEFENDANT: Ms. Karen E. Cremer
SD Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

Mr. Lee A. Magnuson
Lindquist & Vennum, LLP
101 S. Reid St. Ste. 302
Sioux Falls, SD 57103

Ms. Caitlin F. Collier
Collier Law Office
PO Box 435
Vermillion, SD 57069

Ms. Amy Koenig
Black Hills Corporation
PO Box 1400
Rapid City SD 57709

Also Present: Christie Fiegen, PUC Commissioner
Chris Nelson, PUC Commissioner

And: Mr. John Thurber, Manager, Black Hills
Corporation

1 THE COURT: All right.

2 MS. CREMER: And I don't know that anyone has
3 brought one forward.

4 I think it has been covered by everybody else
5 well enough. If you have more questions --

6 THE COURT: You've all done a good job, very good
7 job. I have some catching up to do.

8 All right. So then I think we're back to
9 Mr. Moratzka.

10 MR. MORATZKA: Thank you, Your Honor. Just to --
11 really just a few brief remarks. And then I appreciate all
12 the indulgence and time you've granted to everybody here
13 today.

14 THE COURT: I would rather hear it and maybe
15 learn than get it wrong and do it over.

16 MR. MORATZKA: But I do feel a little bit David
17 and Goliath here in the sense that, you know, until today I
18 was unaware that there was an internal cut-off date for
19 proposed adjustments. I simply didn't know that. And there's
20 nothing in -- and here's the problem with that sort of that
21 line of thinking. The public doesn't know that until now, for
22 one.

23 Number two, you have to start squinting your eyes
24 and tilting your head a little bit to get to something like
25 that. You have to almost make some sort of internal cutoff

1 date or some other thing because otherwise you're on the
2 slippery slope where, well, but here's an adjustment and
3 here's an adjustment. Well, should we consider it? No, we
4 shouldn't. Or should we do this? And that's part of the
5 problem.

6 If -- our line of thinking is the clearest
7 interpretation of the law. It's also the easiest to
8 implement. We don't need an internal cutoff date that parties
9 don't know about. And so I think it's critical that I point
10 that out because that -- if for the rule to function, you need
11 a solid date for adjustments. And that is set out in the
12 rule.

13 THE COURT: Okay. What's typically -- from the
14 time they plant the flag and file their application, which in
15 your view is the cutoff date, no adjustments after that;
16 correct?

17 MR. MORATZKA: Correct.

18 THE COURT: All right. From that time when they
19 plant the flag until the time when typically these cases get
20 decided by the Commission runs about a year; is that correct?

21 MR. MORATZKA: Anywhere from six months to a
22 year, and the utility is entitled to recover interim rates so
23 that they're not completely out of the bag in regulatory life.

24 THE COURT: And the statute says the Commission
25 has got to decide it within a year of planting the flag, I