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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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JUN 22 1995

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF BLACK HILLS POWER AND LIGHT )  
FOR AUTHORITY TO MAKE CERTAIN )  
CHANGES IN ITS CHARGES FOR )  
RETAIL ELECTRIC SERVICE PROVIDED )  
TO SOUTH DAKOTA CUSTOMERS )

SETTLEMENT STIPULATION

EL95-003

On February 1, 1995, Black Hills Power and Light Company (BHPL) filed with the Public Utilities Commission (Commission) an application for a total increase in rates, based upon a test year, for its South Dakota jurisdictional customers, of \$8,388,650, approximating a 9.96% increase in annual charges.

The following entities intervened in this proceeding: (i) Black Hills Industrial Consumer Group (BHIC Group), which group consists of the South Dakota Cement Plant (Dacotah Cement), Homestake Mining Company of California (Homestake), Wharf Resources USA, Inc. (Wharf), Pope & Talbot (P&T), and the Department of Veterans Affairs Medical Center, Fort Meade (VA Hospital) and (ii) the State of South Dakota, Bureau of Administration (BOA). The BHIC Group (including each of Dacotah Cement, Homestake, Wharf, P&T and VA hospital) and the BOA are collectively referred to herein as "Intervenors." BHPL, the Intervenors and the Staff (Staff) of the Commission are collectively referred to herein as "Parties."

The Parties enter into this Settlement Stipulation (Stipulation) which if accepted and ordered by the Commission will finally determine those issues as referenced in the Stipulation.

The Parties stipulate and agree that subject to the Commission's approval, the Commission enter its order consistent with this Stipulation as follows:

1. Revenue Requirements. Rate tariffs shall be designed which, based upon billings issued for sales of electric power and energy for the 12 months ended September 30, 1994 (Test Year), will increase annual revenues from BHPL's South Dakota jurisdictional customers in the amount of approximately \$5,725,800. This increase results in an overall increase from Test Year revenues for BHPL's South Dakota jurisdictional customers of 6.76%.
2. Effective Date of Increase and Rate Design. Attached hereto as Exhibit A are rate tariffs which shall become effective August 1, 1995, and which all Parties agree are consistent with the revenue requirements set forth in the previous paragraph 1 and other provisions of this Stipulation. BHPL represents that the inservice commercial date of Neil Simpson Unit #2 (NS #2) is expected to occur on August 1, 1995; however,

notwithstanding the inservice date of NS #2, BHPL shall not book any AFUDC for the initial construction cost of NS #2 for any period following July 31, 1995.

3. SFAS 106. BHPL shall forgo the recovery of the costs associated with SFAS 106 accruals for the nine months ended September 30, 1993 (prior to the test period), and BHPL's rate base is reduced to recognize the "net" SFAS 106 liabilities funded by rates up to the end of the Test Year in exchange for recognizing SFAS 106 costs on the accrual basis. The revenue level allowed by paragraph 1 incorporates this accounting principle.

4. Excess Deferred Income Tax Flow-Back. In compliance with the stipulation dated August 1, 1988 that settled Dockets F-3647-4 and F-3735, BHPL has not flowed-back any excess deferred income taxes to earnings. That stipulation required BHPL to defer flow-back until a decision was made by the Commission as to the treatment of those excess deferred income taxes. BHPL shall now flow back the excess deferred taxes as of July 1, 1987 over a 20-year period beginning August 1, 1995. This flow-back is designed to avoid any violation of the normalization provisions of the Internal Revenue Code. The revenue level allowed by paragraph 1 incorporates this tax flow-back accounting principle.

5. Energy Efficiency Program. To improve the energy efficiency of low-income dwelling units, BHPL shall contribute \$10,000 to a pilot program, with an equal amount coming from LIHEAP (Low Income Heating Energy Assistance Program) or other governmental funds. The pilot program for low-income customers shall be conducted with the cooperation of the Staff over a period of 18 months and will result in insulating and weatherizing homes and repairing holes in building envelopes.

6. Business Development Service. BHPL is authorized to furnish service under the Business Development Service tariff (included in the tariffs at Exhibit A) to customers qualifying under the provisions thereof and at rates to be determined by contracts agreed to between the Company and the customer which is eligible for such service. All such contracts shall be filed with the Commission.

7. Economic Development Program. BHPL will expend an amount of \$100,000 per year for 1996 and each year thereafter until and including 1999 for economic development programs. Such costs shall not be passed on to BHPL's customers. Prior to November 1, 1995, BHPL will file with the Commission information on the cost, design and impact of its economic development programs, and thereafter the Commission may determine if some of the programs are not appropriate. The Company shall annually on a calendar-year basis file a report reflecting the past year's activity and the following year's budget and expected activity for Commission approval. The Company shall carry over from year to year over and under expenditures as long as a total of \$400,000 is expended during the Freeze Period.

8. Contracts with Customers with Large Loads. BHPL shall enter into an electric service agreement with each of Dacotah Cement, Homestake, Wharf, P&T, the BOA for service to the South Dakota School of Mines and Technology and the BOA for electric service to Black Hills State University, copies of which contracts are attached hereto as Exhibit B. In addition, if the VA Hospital requires a contract for electric service, BHPL will also enter into a one-year contract from time to time with the VA Hospital consistent with the tariff applicable to the VA Hospital and included in Exhibit A.

9. Rate Freeze and Abeyance of Fuel and Purchased Power Adjustment Tariff.

- (a) BHPL shall not file any additional applications with the Commission which, if granted, would result in BHPL receiving an increase of revenues commencing during the period of August 1, 1995 through December 31, 1999 ("Freeze Period"); provided, this restriction would not prevent BHPL from filing for a rate increase to take effect prior to January 1, 2000 if BHPL's cost of service is expected to increase due to an "Extraordinary Event." This restriction does not prevent BHPL from filing rate applications that request changes in rates for reasons other than to obtain a general rate increase; however, no application shall result in a rate increase for any of the Intervenor during the Freeze Period without its approval.
- (b) None of the Intervenor will request the Commission to modify any of BHPL's rate tariffs that if granted would result in a reduction of BHPL's revenues prior to January 1, 2000.
- (c) BHPL's new tariffs shall not include a fuel and purchased power adjustment tariff. BHPL shall refrain from any application to reinstate a fuel and purchased power adjustment tariff to take effect prior to January 1, 2000; provided, if an Extraordinary Event occurs, this restriction shall not apply.
- (d) In recognition of the revenues allowed by this Stipulation and the rate freeze and abeyance of the fuel and purchased power adjustment tariff, no fuel and purchased power related expenses incurred prior to or after the date of this Stipulation and not previously imposed as an adjustment to rates, including any overrecovery or underrecovery under the provisions of the current fuel and purchased power adjustment tariff, shall be imposed as adjustments to rates; and BHPL shall be entitled to retain without adjustments to rates charged to its South Dakota customers all revenues and benefits received for the sale of wholesale capacity and energy, including, without any limitation, sales to MDU for its Sheridan, Wyoming load. This

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provision shall continue to apply to BHPL's tariffs until modified by a lawful order of the Commission entered to take effect prospectively at any time after the Freeze Period or at any time after BHPL applies for an increase in rates or to reinstate the fuel and purchased power adjustment tariff during the Freeze Period because of an Extraordinary Event as defined in the following paragraph (e).

- (e) An Extraordinary Event is any one of the following occurrences:
- (1) New federal, state or local governmental impositions and governmental charges, including, but not limited to, income taxes and taxes or charges imposed on energy and emissions, environmental extranalties and reclamation requirements, imposed after June 12, 1995 upon BHPL or Wyodak Resources Development Corp. that project to cause BHPL's cost of service to its South Dakota customers to increase in a material amount. Increases in the cost of service of less than \$1,000,000 will be presumed not to be material for the purposes of this paragraph.
  - (2) Forced outages, caused by an act of nature or criminal activity or resulting from fire or explosion from any cause, occurring to both the Wyodak Plant and Neil Simpson Unit #2 which are projected to continue simultaneously over a period exceeding 60 days.
  - (3) Forced outage occurring to either the Wyodak Plant or NS #2 which has continued for a period of three months and projected to be nine months or more.
  - (4) The Consumers Price Index, All Urban, as compiled by the United States Department of Labor increases to a monthly rate for six consecutive months which if continuing for the following six months would result in a 10 percent or more annual inflation rate.
  - (5) If for any reason, other than the failure of BHPL to use its best efforts to obtain such approval or acceptance for filing, the Federal Energy Regulatory Commission should fail to approve or accept for filing the agreement (including any amendments that may be required by the FERC as a condition to approval or acceptance) entered into between BHPL and Montana-Dakota Utilities Co. (MDU) providing for the sale of

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power and energy by BHPL to MDU commencing January 1, 1997 for the Sheridan, Wyoming MDU load.

- (f) BHPL represents that during the Freeze Period it will not purchase fuel and electric power which will be intentionally priced artificially low during the Freeze Period and artificially high following the Freeze Period with the result that customers following the Freeze Period would be subsidizing power costs of customers during the Freeze Period.

10. Statement R. For informational purposes, BHPL shall continue to make annual filings with the Commission of the Statement R computation as presented in this Docket to monitor earnings derived from affiliated coal sales to BHPL.

11. Reduction in Taxes During Freeze Period. If any material reduction in federal, state or local taxes occurs which is projected to materially reduce BHPL's cost of service for its South Dakota customers, the Commission shall have the right in its discretion to modify this Stipulation to adjust the rates to reflect the tax changes. Decreases in the cost of service of less than \$1,000,000 will be presumed not be material for the purposes of this paragraph.

12. General Conditions.

- (a) Except for ratemaking principles agreed to in paragraphs 3 and 4 and the provisions that specifically apply to a period of time after the Freeze Period, this Stipulation shall not be deemed to constitute any precedential value after the Freeze Period, including, but not limited to, rate of return and treatment of off-system energy and capacity sales revenues.
- (b) The approval of this Stipulation by the Commission shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this proceeding.
- (c) The Stipulation is expressly conditioned upon the Commission's acceptance of all the provisions hereof, without change or a condition which is unacceptable to any Party.
- (d) Discussions among BHPL, Staff and Intervenors which produced this Agreement have been conducted with the customary understanding that all offers of settlement and discussions relating thereto are privileged and shall not be used in any manner in connection with this proceeding or otherwise, except as required by law.

