

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF) SETTLEMENT STIPULATION
BLACK HILLS POWER, INC. TO)
ESTABLISH AN ENVIRONMENTAL) Docket No. EL11-001
MEASURES COST RECOVERY TARIFF)
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On January 25, 2011, Black Hills Power, Inc., a South Dakota Corporation ("BHP" or the "Company"), filed with the South Dakota Public Utilities Commission (the "Commission") a petition to establish an Environmental Improvement Adjustment ("EIA") tariff and for approval of 2009, 2010 and 2011 planned environmental measures to be included in the EIA tariff applicable to electric service rendered to its customers in South Dakota. The petition consisted of an introduction, explaining that the proposed tariff had been designed in a manner which BHP believed to be consistent with SDCL Chapter 49-34A, Sections 97 through 100, enacted by the South Dakota Legislature in 2007 as SD 118, and various supporting information pursuant to South Dakota Administrative Rule 20:10:13:26.

The Commission issued notice of the filing in its weekly filings for the period January 20, 2011 to January 26, 2011 assigned it to Docket No. EL11-001 and established February 11, 2011 as the intervention deadline. No petitions to intervene were filed.

Pursuant to SDCL 49-1A-8, the Commission assessed a filing fee in the amount of \$50,000 to account for actual expenses incurred in review of Docket No. EL11-001 on March 8, 2011.

The Company has provided notice to affected customers pursuant to SDCL 49-34A-12 and the Administrative Rule of South Dakota ("ARSD") 20:10:13:15 through 20:10:13:18. Further notice pursuant to ARSD 20:10:13:19 will be mailed to customers with the first bill for service including the EIA.

Commission Staff ("Staff") examined the petition in its entirety and entered into a series of written and oral inquiries designed to test the consistency of the proposal with the 2007 legislation and with other relevant ratemaking principles and practices and to fully understand the mechanics of the EIA. Issues were identified and discussed with Company representatives and, as a result of these discussions, Staff and BHP (the "Parties") have reached an agreement in

the form of this Settlement Stipulation, which, if accepted and ordered by the Commission, will determine final rates for service for this proceeding. The term "final rates" in this agreement encompasses both the EIA recovery mechanism as provided in the Company's tariff, established to have a continuing effect, and the EIA rates per kWh to be implemented as the initial EIA.

This Settlement Stipulation has been prepared and executed by the Parties for the sole purpose of resolving the above-captioned docket. The Parties acknowledge that they may have differing views that justify the end result, which they themselves deem to be just and reasonable, and in light of such differences, the Parties agree that the resolution of any single issue, whether express or implied by the Settlement Stipulation, should not be viewed as precedent setting.

In consideration of the mutual promises contained herein, the Parties agree as follows:

1. Upon execution of this Settlement Stipulation, the Parties shall file this document with the Commission, along with a joint motion asking the Commission to issue an order approving this Settlement Stipulation in its entirety without further condition or modification.
2. This Settlement Stipulation includes all terms of settlement and is submitted with the condition that in the event that the Commission imposes any changes or conditions to this Settlement Stipulation which are unacceptable to either of the Parties, this Settlement Stipulation shall be deemed withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding nor be used for any other purpose.
3. This Settlement Stipulation shall become binding upon execution by the Parties, provided however, that if this Settlement Stipulation does not become effective in accordance with Paragraph 2 above, it shall be null, void and privileged. This Settlement Stipulation is intended to relate only to the specific matters referred to herein; no party waives any right or claim which it may otherwise have with respect to any matter not expressly provided for herein; no party shall be deemed to have approved, accepted, agreed or consented to any ratemaking principle, or any method of cost of service allocation underlying the provisions of this Settlement Stipulation, or be prejudiced or bound thereby in any other present or future proceeding before the Commission or before any other regulatory or judicial body.
4. It is understood that Commission Staff enters into this Settlement Stipulation for the benefit of BHP's customers in South Dakota affected by this docket.

5. Updated tariff pages setting forth the revised electric rates and tariffs provided by this Settlement Stipulation are attached as Exhibit A and incorporated here by reference. The Parties agree that the Company's rate schedules are designed to implement the EIA upon approval by the Commission based on estimated costs of eligible environmental measures incurred with revenue requirements beginning April 1, 2011, subject to later "true-up" to their actual costs and actual recoveries.

ELEMENTS OF SETTLEMENT STIPULATION

1. **Eligible Environmental Measures** – Staff concluded that the environmental improvements at the Wyodak plant included in this docket qualify as eligible investments under SDCL § 49-34A-97. The Parties agree that the Company will complete the process of determining the final costs of the improvements and will submit its determinations to the Commission for review and approval as a 'true-up' in the next annual filing.

2. **Rate of Return** – The Parties agree that the rate of return applicable to the eligible investments reflected in the EIA shall be based on the Company's actual capital structure and debt costs as of March 31st for each annual recovery period the EIA is in effect.

3. **Rate Design** – The Parties agree that, as proposed in the filing, separate rates per kWh based on a capacity allocation, will apply to the residential, small general service, large general service and industrial and lighting customer classes. The Company understands this method of revenue distribution will be reviewed by Staff at the Company's next general rate filing or class cost of service study.

4. **Annual Filings** – The Company agrees to make an annual EIA filing by February 15th of each year for projected environmental capital costs, expenses and recoveries. In addition, a supplemental filing to reflect actual financial information for the period of April 1st to March 31st will be filed no later than April 30th of each year.

5. **Annual Reports of South Dakota Jurisdictional Financial Condition** – The Parties agree that, by June 1st of each year beginning in 2012, the Company will send to Commission Staff an informational report of its South Dakota jurisdictional financial condition for the preceding calendar year. The determinations will be presented on an actual basis and will reflect

South Dakota ratemaking practices. This requirement will exist only as long as the Company is receiving revenue from the EIA.

6. **Effective Date** – The Parties agree that, after approval of this Settlement Stipulation by the Commission, the initial EIA will be implemented with an effective date of June 1, 2011.

Black Hills Power, Inc.

South Dakota Public Utilities Commission

By: Richard C. Foomis
Its: Vice President, Operations

By: Jon Thurber
Its: Staff Analyst