

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION)	
OF BLACK HILLS POWER, INC. FOR A)	SETTLEMENT STIPULATION
PERMIT TO CONSTRUCT A 230 KV)	
TRANSMISSION LINE FROM)	EL14-061
NORTHEASTERN WYOMING TO THE)	
RAPID CITY AREA IN SOUTH DAKOTA)	

It is hereby stipulated and agreed by and among Black Hills Power, Inc. ("Applicant" or "Black Hills Power") and the South Dakota Public Utilities Commission Staff ("Staff"), (jointly "Party" or "Parties"), that the following Settlement Stipulation ("Stipulation") may be adopted by the South Dakota Public Utilities Commission ("Commission") in the above-captioned matter. In support of its Application of Black Hills Power, Inc. for a 230-kV Transmission Line and Associated Substation Modification Facility Permit ("Application"), as amended, Applicant does hereby offer this Stipulation, the Application filed June 30, 2014, the amended Attachments filed on October 3, 2014, and all responses submitted by the Applicant to the Intervenor and Staff's data requests. The Parties offer no answering testimony or exhibits, conditioned upon the Commission accepting the following Stipulation and the Terms and Conditions without any material condition or modification.

I. INTRODUCTION

Black Hills Power proposes to own and construct the Teckla-Osage-Rapid City 230 kV electric transmission facilities ("Project"). In South Dakota, the Project includes new 230 kV electric transmission facilities of approximately 45.4 miles in length and modifications to the Lange Substation. This Project will utilize the permit obtained in this docket in addition to the permit obtained in Wyoming Docket No. 20002-95-ER-14 (Record 13933).

II. PURPOSE

This Stipulation has been prepared and executed by the Parties for the sole purpose of resolving Docket No. EL14-061. In consideration of the mutual promises hereinafter set forth, the Parties agree as follows:

1. Upon execution of the Stipulation, the Parties shall file this Stipulation with the Commission together with a joint motion requesting that the Commission issue an order approving this Stipulation in its entirety without condition or modification.
2. This Stipulation includes all terms and conditions of settlement and is submitted with the condition that, in the event the Commission imposes any material changes or conditions to this Stipulation which are unacceptable to any Party, this Stipulation may, at the option of any Party, be withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding nor be used for any other purpose.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 Stipulation shall become binding upon execution by the Parties, provided however, that if this Stipulation does not become effective in accordance with Paragraph 2 above, it shall be null, void, and privileged. This Stipulation is intended to relate only to the specific matter referred to herein; no Party waives any claim or right, which it may otherwise have, with respect to any matter not expressly provided for herein. No Party or a representative thereof shall directly or indirectly refer to this Stipulation as precedent in any other current or future proceeding before the Commission.
4. The Parties to this proceeding stipulate that all pre-filed testimony, exhibits, and responses to Intervenor and Staff data requests will be made a part of the record in this proceeding. The Parties understand that if this matter had not been settled, the Parties would have filed direct and rebuttal testimony.
5. The terms and conditions contained in this Stipulation shall inure to the benefit of and be binding upon the respective successors, affiliates, owners, stockholders, partners, parents, subsidiaries, directors, officers, agents, employees, representatives, attorneys, and assigns of the Parties. In addition, the terms and conditions of this Stipulation, including all facts leading up to the signing of this Stipulation, shall bind the Parties, including consultants, contractors, and retained professionals.
6. This Stipulation constitutes the entire agreement between the Parties and shall be deemed to supersede any other understandings or agreements, whether written, oral, expressed or implied, relating to the Application. This Stipulation may not be amended, modified, or supplemented, and waivers or consents to departures from the terms and conditions of this Stipulation may not be given without the written consent thereto executed by all Parties.
7. This Stipulation shall be interpreted and construed in accordance with the laws of the State of South Dakota.
8. This Stipulation may be executed by electronic mail or facsimile and in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
9. The Parties recognize that the Commission has granted intervention to Ruby B. Matejcik, Victoria Leonard, GCC Dacotah, Inc., Michael Lewis, Stephen Vadney, Dave Riemenschneider, Barbara Anderson Lewis, and Robert Varilek/AW LLC., Barton Banks, and James S. Hodgens. The Intervenor are not parties to this Stipulation.
10. The Parties agree that subject to the four elements of proof under SDCL § 49-41B-22, the Commission has the authority to grant, deny, or grant upon reasonable terms, conditions or modifications a permit for the construction, operation, and maintenance of the Project. Each Party further agrees that Applicant has met its burden of proof pursuant to SDCL § 49-41B-22 and is entitled to a permit to construct the Project as provided in SDCL § 49-41B-25, subject to the following:

III. TERMS AND CONDITIONS OF THE SETTLEMENT STIPULATION

1.

Applicant will obtain all governmental permits, which reasonably may be required, by any township, county, state, or federal agency or any other governmental unit for construction activity prior to engaging in the particular activity covered by that permit. Copies of any permits obtained by Applicant shall be filed with the Commission.

2.

Applicant shall construct, operate, and maintain the Project in a manner consistent with: (1) descriptions in the Application, (2) Application supplements, (3) responses to data requests, (4) the Terms and Conditions of the Permit to Construct Facilities, and (5) any applicable industry standards.

3.

Applicant agrees that the Commission's complaint process as set forth in ARSD 20:10:01 shall be available to landowners, other persons sustaining or threatened with damage as the result of Applicant's failure to abide by the conditions of the Permit or otherwise having standing to seek enforcement of the conditions of the Permit.

4.

Applicant shall provide each landowner on whose property the Project is to be constructed with the following information:

- a) A copy of the Commission's Order Granting Permit to Construct Facilities;
- b) Detailed safety information describing:
 - 1) Reasonable safety precautions for existing activities on or near the Project,
 - 2) Known activities or uses that are presently prohibited near the Project, and
 - 3) Other known potential dangers or limitations near the Project;
- c) Construction/maintenance damage compensation plans and procedures;
- d) Commission's address, website, and phone number; and
- e) Contact person for Applicant, including name, e-mail address, and phone number.

5.

In order to ensure compliance with the terms and conditions of this Permit pursuant to SDCL 49-41B-33, it is necessary for the enforcement of this Order that all employees, contractors, and agents of Applicant involved in this Project be made aware of the terms and conditions of this Permit.

6.

Except as otherwise provided in the conditions of this Stipulation, Applicant shall comply with all mitigation measures set forth in the Application, as amended, and Applicant responses to Staff data requests, Applicants responses to Invervenors' requests, and in Applicants' prefiled testimony and exhibits. Material modifications to the mitigation measures shall be subject to prior approval of the Commission.

7.

Applicant will negotiate road use agreements with Pennington County, and all affected townships, if required. Applicant will follow the terms of all road use agreements. Applicant shall take appropriate action to mitigate wind-blown particles created throughout the construction process, including but not limited to implementation of dust control measures such as road watering, covering of open haul trucks when transporting material subject to being windblown, and the removal of any soils or mud deposits by construction equipment when necessary.

8.

Applicant shall comply with the following conditions regarding road protection:

- a) Applicant shall acquire all necessary permits authorizing the crossing of federal, state, county, and township roads.
- b) Applicant shall coordinate road closures with federal, state, and local governments and emergency responders.
- c) Applicant shall implement a regular program of road maintenance and repair throughout the active construction period to keep paved and gravel roads in an acceptable condition for residents and the public.
- d) After construction, Applicant shall repair and restore deteriorated roads resulting from construction traffic, or compensate governmental entities for their repair and restoration of deteriorated roads, such that the roads are returned to their preconstruction condition.
- e) Privately owned areas used as temporary roads during construction will be restored to their preconstruction condition, except as otherwise requested or agreed to by the landowner.
- f) Should Applicant need to widen any existing roadways during construction of the Project, the Applicant shall return the roadways back to original width

after completion of the Project, unless agreed upon otherwise with the federal, state, county, or township entities, or the landowner.

- g) Should the Final Environmental Impact Statement (EIS) identify any mitigation measures to be implemented by Applicant during road construction activities, Applicant shall implement said measures as required.

9.

Applicant will negotiate crossing agreements with owners of existing underground pipeline facilities and will follow the terms of all such agreements. Applicant will coordinate with pipeline owners to perform any necessary studies to ensure that the Project does not cause harm to existing pipeline facilities. Based on the outcome of these studies, Applicant will work with pipeline owners to implement any necessary and reasonable mitigation requirements.

10.

Applicant will provide signage that identifies road closures and disturbances resulting from the Project in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.

11.

Applicant shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species or native grasslands in the siting area that Applicant becomes aware of and that was not previously reported to the Commission.

12.

Applicant agrees to avoid cultural resources sites not evaluated or eligible for listing on or already listed on or that are eligible for listing on, the National Register of Historic Places (NRHP), and those that are not evaluated for listing on the NRHP. When NRHP-eligible or listed sites cannot be avoided, Applicant will notify the State Historic Preservation Office (SHPO) and the Commission of the reasons that complete avoidance cannot be achieved in order to coordinate minimization and/or treatment measures.

13.

If during construction Applicant discovers what may be a cultural resource, human skeletal remains, or associated funerary objects, Applicant or its agent shall immediately cease work at the location and notify the landowner(s), the SHPO, and other authorities as appropriate (per SDCL 34-27-25 and SDCL 34-27-28 in the case of human burials). If it is determined, in coordination with SHPO, that a significant resource is present, Applicant shall develop a plan that is acceptable to the landowner and SHPO that minimizes the impact or threat to the resource.

14.

Applicant shall follow all protection and mitigation efforts as identified by the Black Hills National Forest. This shall include, but not be limited to, the requirements and/or mitigation measures outlined in the Final Environmental Impact Statement that was prepared by the Black Hills National Forest in cooperation with the Thunder Basin National Grasslands and the Bureau

of Land Management. Applicant shall reasonably update the Commission if any of the final agency recommendations agreed to by the Applicant as provided for this paragraph 14 changes.

15.

Applicant shall confer with the applicable agencies in the implementation of measures for the protection of avian species consistent with “Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006” and “Reducing Avian Collisions with Power Lines: State of the Art in 2012” prepared by the Avian Power Line Interaction Committee.

16.

Applicant shall provide the Stormwater Pollution Prevention Plan (SWPPP) to the Commission when Applicant has a final design for the Project. The SWPPP will outline the water and soil conservation practices that will be used during construction to prevent or minimize erosion and sedimentation. The SWPPP will be completed before submittal of an application for a National Pollutant Discharge Elimination System (NPDES) general permit for construction activities. All contractors will be given a copy of the SWPPP and requirements will be reviewed with them prior to the start of construction.

17.

Applicant will repair and restore areas disturbed by construction or maintenance of the Project. Except as otherwise agreed to by the landowner, restoration will include replacement of original pre-construction topsoil or equivalent quality topsoil to its original elevation, contour, and compaction and re-establishment of original vegetation as close thereto as reasonably practical.

18.

Applicant's obligation with respect to restoration and maintenance of the right-of-way (ROW) shall continue throughout the life of the Project for disturbances caused by the actions of the Applicant. Where the soil is disturbed during construction or maintenance of the line, Applicant shall restore vegetation in and along the ROW. If noxious weeds sprout in restored areas, Applicant will remove/eliminate them. Landowner permission shall be obtained before the initial application of herbicides.

19.

When necessitated by Applicant's actions, Applicant shall restore and clean-up the ROW continuously throughout the duration of the Project's construction as the timing of construction activities result in the need to do so.

20.

Applicant shall stage construction materials in a manner that minimizes the adverse impact to landowners and land users as agreed upon between Applicant and landowner or Applicant and appropriate federal, state, and/or local government agency. All excess construction materials and debris shall be removed upon completion of the Project. In addition, any temporary guard poles shall be removed, unless agreed upon otherwise by the federal, state, county, or township entities, and/or landowner.

21.

Applicant shall, in a manner consistent with its easement agreement with a landowner, repair or replace all private property removed or damaged during all phases of construction, including but not limited to the following: fences, gates, utility, water supply systems, irrigation, or drainage systems. Applicant shall compensate the landowners for damages or losses to property existing at the time of construction or maintenance that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses.

22.

If it becomes necessary to materially deviate from the described centerline to accommodate engineering and applicable safety and construction requirements based upon actual conditions encountered during construction, all landowners affected by the material deviation and the Commission must be notified in writing at least five business days before the material deviation may occur. The Commission must approve all material deviations from the described centerline. For purposes of this paragraph, the term "material deviation" shall mean any action or activity outside the reasonable parameters of the Permit.

23.

Applicant shall locate all structures, to the extent feasible and prudent, to minimize adverse impacts and interferences with agricultural operations, shelterbelts and other land uses or activities. Applicant shall take appropriate precautions to protect forested areas, recreational trails, livestock, and crops during construction.

24.

The terms and conditions of the Permit shall be made a uniform condition of construction, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular condition should not be applied to the property in question and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis. The Commission shall evaluate such requests on a case-by-case basis which evaluation shall be completed within sixty (60) days unless exigent circumstances require action sooner.

25.

If the presence of operation of the Project causes interference with radio, television, or any other licensed communication transmitting or receiving equipment, Applicant shall take all appropriate action to minimize any such interference and shall make a good faith effort to restore or provide reception levels equivalent to reception levels in the immediate areas just prior to construction of the Project. This mitigation requirement shall not apply to any dwellings or other structures built after completion of the Project.

26.

Applicant shall use appropriate preventative measures to prevent damage to paved roads and to remove excess soil or mud from such roadways. Before commencing construction, Applicant shall furnish an indemnity bond in the amount of \$150,000 to comply with the requirements of SDCL 49-41B-38. Such bond shall be issued in favor of, and for the benefit of, all such townships, counties, and other governmental entities whose property is crossed by the

transmission facilities or used by associated construction equipment. The bond shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and remediation period. Applicant shall give notice of the existence and amount of the bond to all counties, townships and other governmental entities whose property is crossed in South Dakota by the Project.

27.

Applicant will provide Global Positioning System (GPS) coordinates of structure locations to affected landowners at any time during the life of the Project. Coordinates will be provided in writing to landowners within 30 days of a request.

28.

Not less than 30 days prior to commencement of construction work in the field, Applicant will provide to Staff the most current pre-construction design, layout and plans. Applicant also will provide such additional pre-construction information as Staff requests.

29.

Within 90 days of the Project's completion, Applicant shall submit a report to the Commission that provides the following information: 1) as-built location of structures and route, including drawings; 2) status of remedial activities for road damage, landowner property damage, crop damage, environmental damage, or any other damage that resulted from construction activities; and 3) a summary of known landowner complaints and Applicant's plan for resolving the complaints.

30.

Prior to construction, Applicant will notify public safety agencies providing a schedule and location of work to be performed within their jurisdiction. The agencies contacted will include the South Dakota Department of Public Safety, the Sheriff of Pennington County, and the Pennington County Office of Emergency Management.

31.

Applicant shall comply with the conditions set forth in this section regarding recreational trail protection. Recreational trails include, but are not limited to, ATV trails, motorcycle trails, snowmobile trails, hiking trails, and biking trails.

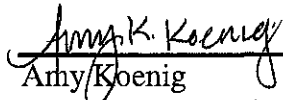
- a) Applicant shall coordinate recreational trail closures with appropriate federal, state, and/or local government agency, if trail closure is required during Project construction.
- b) Applicant shall provide notice to appropriate federal, state, and/or local government agency of construction activities that may adversely impact the use of a recreational trail during Project construction.
- c) Should the Project adversely impact the use of a recreational trail during construction, Applicant shall work with the appropriate federal, state, and/or

local government agency to provide adequate notice of construction activities to trail users.

- d) Applicant shall implement a regular program of recreational trail maintenance and repair throughout the active construction period for any recreational trails used to access the Project ROW.
- e) After construction, Applicant shall repair and restore deteriorated recreational trails resulting from construction traffic, or compensate governmental entities for their repair and restoration of deteriorated trails, such that the trails are returned to their preconstruction condition.
- f) Should Applicant need to widen any recreational trails during construction of the Project, Applicant shall return the trails back to original width after completion of the Project, unless agreed upon otherwise with the appropriate federal, state, county, or township entities, or the landowner.

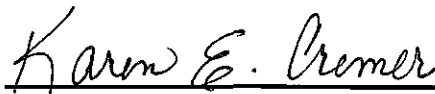
Dated: October 28, 2014

Black Hills Power, Inc.



Amy Koenig
Corporate Counsel
Attorney for Applicant

Dated: October 28, 2014



Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission