

Objection to Conditional Acceptance of Procedural Schedule

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

In the Matter of the Application of Black Hills Power, Inc. d/b/a Black Hills Energy for Authority to Increase Rates for Electric Service in South Dakota EL26-003

OBJECTION TO BLACK HILLS POWER'S CONDITIONAL ACCEPTANCE OF THE PROCEDURAL SCHEDULE

Intervenor **John D. McKee, Sr.** respectfully submits this objection to the portion of Black Hills Power's May 18, 2026 filing that conditions its acceptance of the proposed procedural schedule upon the Commission granting virtual testimony for witness Mr. Tom Stevens.

1. Procedural Parity and Uniform Application of Commission Requirements

Intervenors in this proceeding, including the undersigned, were required to adhere strictly to Commission deadlines, appearance requirements, and procedural rules as a condition of participation. Black Hills Power now seeks an exception to those same requirements for its own witness.

The Commission's procedural rules apply uniformly to all parties. Allowing the utility to condition its acceptance of the schedule on a special accommodation creates an asymmetry that did not exist for intervenors and was not available to them.

2. Impact on Evaluation of Testimony and Credibility

Mr. Stevens' testimony concerns **capital structure and financing**, which are central issues in this rate case. Black Hills Power states that:

"Mr. Stevens' testimony cannot effectively be adopted by another witness."

Because his testimony is both material and irreplaceable, the ability of intervenors and the Commission to evaluate credibility, demeanor, and responsiveness is essential. Virtual testimony may impair that evaluation, particularly during cross-examination involving financial exhibits and real-time document review.

3. No Showing of Good Cause for an Exception

Black Hills Power cites a “previously scheduled conflict” outside South Dakota. Intervenors were not permitted to condition their participation on personal scheduling conflicts, nor were they afforded exceptions for unavailability.

A party’s scheduling conflict does not constitute good cause for altering the manner in which material testimony is presented in a contested rate case.

4. Preservation of the Record

This objection is submitted to ensure the record reflects:

- the importance of in-person testimony for a key witness,
- the need for procedural parity among all parties, and
- the potential prejudice to intervenors if credibility evaluation is impaired.

Intervenor does not seek delay of the schedule and does not oppose the schedule itself.

REQUEST FOR RELIEF

Intervenor respectfully requests that the Commission:

1. **Deny** Black Hills Power’s request for virtual testimony for Mr. Stevens; **or**, in the alternative,
2. Require Black Hills Power to demonstrate **good cause** beyond a scheduling conflict; and
3. Affirm that procedural requirements apply uniformly to all parties, including the utility.

Dated this 18th day of May, 2026.

Respectfully submitted,



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