

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

DOCKET EL26-003 IN THE MATTER OF THE APPLICATION OF BLACK HILLS POWER, INC. FOR AUTHORITY TO INCREASE RATES

MOTION TO ADOPT PROTECTIVE ORDER

Intervenor John D. McKee, Sr., respectfully moves the South Dakota Public Utilities Commission (“Commission”) to adopt the attached Protective Order governing the treatment of confidential information in this proceeding.

1. Background

Black Hills Power, Inc. (“BHP”) has indicated that certain discovery materials may contain confidential information. Intervenor has requested an appropriate mechanism to access such information consistent with Commission rules. BHP has not provided a Commission-approved protective order or other workable confidentiality framework.

Commission Staff has previously circulated a sample protective order for use in this docket. Intervenor now submits a proposed Protective Order modeled on Commission practice and consistent with ARSD 20:10:01:39 through 20:10:01:44.

2. Basis for Relief

A Commission-issued Protective Order is necessary to:

- ensure equal access to confidential materials for all parties;
- provide a uniform, Commission-supervised process for confidentiality designations;
- avoid reliance on private nondisclosure agreements; and
- facilitate timely discovery and participation by all intervenors.

The proposed Protective Order:

- follows the structure and requirements of Commission rules;
- limits confidentiality designations to those authorized by law;
- provides a clear challenge process;

- preserves the Commission’s authority to resolve disputes; and
- expressly allows the use of modern analytical tools, including AI-assisted systems, so long as confidentiality is maintained.

3. Request for Commission Action

Intervenor respectfully requests that the Commission:

1. **Adopt the attached Protective Order** as the governing confidentiality framework for this docket; and
2. **Direct BHP to produce any confidential discovery materials** pursuant to the adopted Order.

4. Conclusion

The proposed Protective Order provides a fair, balanced, and Commission-supervised mechanism for handling confidential information. Intervenor therefore requests that the Commission adopt the attached Protective Order.

Respectfully submitted,

John D. McKee, Sr.

Intervenor, Docket EL26-003

Rapid City, South Dakota

June 8, 2026