BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF BLACK HILLS POWER, INC. DBA BLACK HILLS ENERGY FOR APPROVAL OF ITS PHASE-IN RATE PLAN TARIFF REVISIONS	**)** **)** **)** **)** **)** **)**	**EL26-024** **RESPONSE IN SUPPORT OF STAFF'S OBJECTION AND ALTERNATIVE MOTION TO SUSPEND OF THE SOUTH DAKOTA LARGE CUSTOMER GROUP.**

The South Dakota Large Customer Group ("SDLCG")[1] hereby submits this response in support of Staff's Objection to Black Hills Energy's Notice of Intent to Implement Interim Rates and Alternative Motion to Suspend Interim Rates ("Staff Objection"), and independently objects to the Notice of Intent to Implement Interim Rates ("Notice") filed by Black Hills Power, Inc. d/b/a Black Hills Energy ("Black Hills" or the "Company") on October 30, 2026. SDLCG respectfully requests that the South Dakota Public Utilities Commission ("Commission") find that Black Hills lacks authority to implement the noticed interim rates or, in the alternative, suspend the Company's proposed Phase In Plan Rate ("PIPR") increase pursuant to South Dakota Codified Laws section 49-34A-14, set this matter for hearing, and establish a procedural schedule. In support, SDLCG states as follows:

I. INTRODUCTION

If permitted to go into effect, Black Hills' proposed PIPR interim rates would impose a significant rate increase on customers before the parties and the Commission have had an adequate opportunity to determine whether the proposed PIPR complies with the governing statutory framework, serves the public interest, and will result in just and reasonable rates. Careful review is particularly warranted here because Black Hills proposes to implement the

[1] SDLCG is an unincorporated association of large energy consumers, consisting of Dakota Panel, Fischer Furniture, Inc., Forest Products Distributors, Inc., GCC Dacotah, Inc., Monument Health Rapid City Hospital, Inc., Pete Lien & Sons, Inc., the South Dakota Science and Technology Authority, Spearfish Forest Products, Inc., and Wharf Resources (USA), Inc. On August 21, 2026, SDLCG petitioned to intervene in this proceeding, and its petition was granted on September 10, 2026.

PIPR with an annual revenue requirement *greater than the rate increase the Commission recently approved in Black Hills' general rate case,* on the very day that final rates from the general rate case take effect, leaving customers to absorb pancaked rate changes stacked one on top of the other. The PIPR statute conditions approval of any phase-in plan on notice, an opportunity for hearing, and affirmative Commission findings regarding, among other things, rate stability, just and reasonable rates, and the public interest.[2] In addition, even assuming interim rates are available for PIPR increases, the suspension statute exists precisely so that a proposed rate increase of this magnitude can be tested before it is approved and charged to customers.

As an initial matter, the Commission should grant Staff's Objection and determine that Black Hills lacks authority to implement interim PIPR rates. In the alternative, the Commission should suspend the proposed PIPR, preventing interim rates from taking effect at this time.[3] Doing so would afford the parties and the Commission the opportunity to fully review the proposed increase.

II. ARGUMENT

A. The SDLCG supports Staff's Objection and position that Black Hills lacks authority to implement interim rates for a proposed PIPR.

The SDLCG supports Staff's Objection and will not repeat those arguments here.

B. In the alternative, the Commission should suspend the proposed PIPR because Black Hills has not satisfied the conditions of Section 49-34A-74 for approval of the PIPR.

A PIPR is a creature of statute. Section 49-34A-73 states that the Commission *may* approve a PIPR if the statutory conditions are met. Crucially, approval requires the

[2] SDCL § 49-34A-74(4).
[3] SDCL § 49-34A-17(1) prevents interim rates from taking effect if the rate is suspended and the suspension period has not concluded.

Commission to "afford[] an opportunity for a hearing with notice given as required for any rate increase," and the Commission must find[] that the phase-in rate plan is likely to enhance

- adequate utility service,
- rate stability,
- the financial stability of the electric utility,
- reasonable capital costs,
- just and reasonable rates,
- a fair rate of return, and
- other considerations that benefit the public interest.[4]

None of those prerequisites have been demonstrated here; rubberstamping the interim rates, or final rates, before suspension would allow Black Hills to collect PIPR revenue without meeting the conditions of statute.

An adequate opportunity to review the PIPR proposal is especially warranted here given the magnitude of the proposed PIPR rate. As proposed, the PIPR will increase annual revenues by $37.5 million, significantly larger than the $27.4 million annual revenue increase the Commission recently approved in Black Hills' general rate case. However, the contrast between this proceeding to date and the general rate case could not be sharper: Whereas the Commission approved a settlement in the general rate case only after months of discovery, settlement discussions, and open meeting deliberations; here, Black Hills proposes to begin collecting a separate, substantial rate increase based on nothing more than its own filing. Here, the Commission has not established a procedural schedule, the parties have only just begun to propound discovery, there has been no opportunity to file testimony, and the Commission has not held a hearing. Implementing an untested rate increase in this manner deprives customers

[4] SDCL § 49-34A-74(3), (4).

and intervenors of the notice and opportunity for hearing that the PIPR statutes require. What's more, it undermines rate stability, invites customer confusion, and threatens real harm to the residential, commercial, and industrial customers who would bear the multiple rate increases.

The parties and Staff must have a meaningful opportunity to examine the Application, conduct discovery, and test the Company's cost projections and allocations before the increase is charged to customers. The suspension statute is designed to afford exactly that opportunity, permitting the Commission to suspend a proposed rate for up to 180 days after filing so that it can be examined before interim rates may take effect.[5] Permitting interim rates under these circumstances would render the statutory hearing requirement a hollow afterthought—conducted only after customers have already been paying the increase for months. Suspension under section 49-34A-14, which is expressly tied to a pending hearing under section 49-34A-13, is the mechanism the Legislature provided to prevent exactly that result.

III. CONCLUSION

The SDLCG respectfully requests that the Commission: (1) sustain Staff's Objection and find that Black Hills lacks authority to implement interim rates pursuant to section 49-34A-17 in this proceeding; or in the alternative (2) suspend the operation of Black Hills' proposed PIPR rate pursuant to section 49-34A-14 for 180 days after the filing of the Application on August 5, 2026, through February 1, 2027; (3) set this matter for hearing pursuant to sections 49-34A-13 and 49-34A-74(3); (4) direct the parties to confer and propose a procedural schedule that allows adequate time for discovery and testimony; and (5) grant such further relief as the Commission deems just and reasonable.

[5] SDCL § 49-34A-14.

Dated November 13, 2026.

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