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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION OF  
BLACK HILLS POWER, INC. FOR AUTHORITY  
TO INCREASE RATES FOR ELECTRIC SERVICE EL06-019

=====

Transcript of Proceedings  
December 28, 2006

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COMMISSION STAFF

- John Smith
- Karen Cremer
- Keith Senger
- Bob Knadle
- Dave Jacobson
- Nathan Solem

**ORIGINAL**

APPEARANCES

KYLE D. WHITE and LINDEN R. EVANS,  
Black Hills Corporation, 625 Ninth Street,  
Rapid City, South Dakota 57701,  
appearing on behalf of Black Hills Corp.;

ROBERT S. LEE,  
MACKALL, CROUNSE & MOORE, Attorneys at Law,  
1400 AT&T Tower, 901 Marquette Avenue,  
Minneapolis, Minnesota 55402,  
appearing on behalf of Black Hills Intervenors;

ROBERT G. TOWERS,  
Chesapeake Regulatory Consultants, Inc.,  
1698 Saefern Way, Annapolis, Maryland 21401,  
appearing on behalf of PUC staff.

THURSDAY, DECEMBER 28, 2006

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CHAIRMAN JOHNSON: Good morning, ladies and gentlemen.

This is the meeting of the South Dakota public utilities meeting, rather the South Dakota Public Utilities Commission. It's Thursday, December 28, 2006 at 9 a.m. This is Room 412 of the State Capitol building and this is the time and the place for the ad hoc meeting of the commission. The only item before us today is under electricity, item number one, it's EL06-019. It's in the matter of the application of Black Hills Power, Incorporated for authority to increase rates for electrical service. And the question before the commission today is, shall we approve a joint motion for a settlement stipulation? We do have Mr. Evans and Mr. White at the microphone. We also have on the line Bob Towers. Bob, are you on the line?

MR. TOWERS: Yes, I am.

CHAIRMAN JOHNSON: Bob Lee. Mr. Lee?

MR. LEE: Yes.

CHAIRMAN JOHNSON: Wonderful. I don't know if you all had planned anything in particular, but I was thinking we would hear from the applicants and then hear from the intervenors and then staff, if that's acceptable to the parties. Let's proceed. Go ahead. I'm sorry, I would note for the record that Commissioner Hanson and Commissioner Kolbeck are also here in Pierre. Thanks.

MR. WHITE: Good morning. I'm Kyle White,

1 representing Black Hills Power today. Thank you for the  
2 opportunity to have this hearing this week. We know it's not  
3 the most convenient week with the holiday schedule, but this is  
4 important to us and we appreciate the opportunity to be here.

5 With me today are some company representatives to  
6 support our application and the settlement that's before you.  
7 I have with me Lin Evans, who is our president and chief  
8 operating officer for Black Hills Corporation's retail business  
9 units. We also have with us Marv Truhe, who is outside counsel  
10 supporting us, Jackie Sargent, our director of rates, and Brian  
11 Iverson, our senior counsel for Black Hills Corporation.

12 We were anticipating an informal process today, so as  
13 I talk about the application and talk about the settlement,  
14 feel free to ask questions as you would like.

15 To give you a little background and history for Black  
16 Hills Power, it's been some time since we have been before the  
17 commission with any requests for an electric rate increase.  
18 Our last application was in 1995, and that case was one that  
19 was largely centered on incorporating a new coal-fired power  
20 plant, the 85 megawatt Neil Simpson Unit No. II into the  
21 company's rates. That rate case also did settle. It settled  
22 for a six percent revenue increase and it also incorporated  
23 some rate freezes in it. The first rate freezes were for  
24 approximately four and a half years and then later were  
25 extended through a settlement with staff in 1999 so that we had

1 a rate freeze through the end of 2004.

2           So what our customers have experienced is about 11  
3 years of flat rates. That rate increase did not include fuel  
4 and purchased power adjustments and so, therefore, if you make  
5 a comparison for our customers to the consumer price index over  
6 that period of time, the consumer price index went up about 25  
7 percent and our customers saw a zero percent increase in their  
8 rates. So we are very pleased with the rate stability and the  
9 cost containment that we have been able to achieve during that  
10 period of time, particularly with the changes that have  
11 occurred since 1995.

12           Black Hills Corporation, through Black Hills Power,  
13 has made significant investments in new generation, in new  
14 transmission and new distribution. In fact we are serving  
15 about 12,000 more customers today than we were in 1995. So  
16 it's been significant, the investment and the needs in a  
17 growing service territory.

18           During that period of time we have also experienced  
19 increased price volatility for natural gas, for fuel oil and  
20 for purchased power. Those markets have changed dramatically  
21 since the mid 1990s and there has been a variety of reasons for  
22 that. One of the primary reasons being a more robust wholesale  
23 power market. That's something that we worked hard to develop,  
24 a power marketing business during the last decade or so.

25           Our application for an electric rate increase was

1 submitted to you on June 30th of this year and in our request,  
2 we asked for a nine and a half percent increase with three  
3 adjustment clauses. That nine and a half percent increase as  
4 proposed was to be an across the board rate increase for all  
5 customer classes and we were requesting, as we are requesting  
6 in the settlement today, that rates be effective January 1st,  
7 2007.

8 In compliance with the commission's rules, we provided  
9 statements A through R, significant work papers, and also  
10 supporting testimony from 13 witnesses. As a result of our  
11 application, we did provide public notice to our customers in  
12 the form as specified by the commission. We provided  
13 information in our customer newsletters and for our largest  
14 customers, approximately 300 of them, we sent specific letters  
15 to them announcing the increase and for the largest customers  
16 had specific discussions with them, either by phone or in  
17 person so that they were aware of the changes that were being  
18 proposed and the need for the increase.

19 As a result of those public notices, customer contacts  
20 and the press coverage that we received, there was some minor  
21 inquiries from the smaller customers and the intervention of  
22 three industrial consumers that we refer to as the Black Hills  
23 Intervenors. They were later joined by one additional  
24 industrial consumer and became a group of four customers that  
25 intervened in the proceeding and conducted extensive discovery

1 through their regulatory attorney and their regulatory  
2 consultant. In fact it's the same team that was involved  
3 representing industrial consumers in our 1995 case, so they are  
4 well familiar with our company and our practices.

5 In addition, there was extensive discovery by South  
6 Dakota Public Utilities Commission staff as well as discussion  
7 on an informal basis about the particular aspects of our  
8 company and our proposed increase. The settlement with the  
9 intervenors was our first accomplishment in moving this  
10 proceeding forth to today. That was completed in I believe  
11 late October, early November, and the next step was then to  
12 work on settlement with staff. The settlement with the  
13 intervenors is a confidential settlement and was accepted by  
14 staff and is incorporated into the settlement that's before you  
15 today.

16 I'll give you a little background, then, on the  
17 settlement which you have been reviewing the last week or so.  
18 It does provide for a 7.8 percent increase in base rates. The  
19 rates would be effective January 1st, 2007, if approved by you  
20 today. It does provide for a rate freeze where rates for our  
21 base rates will not be increased until 2010 at the earliest,  
22 and it also provides for three adjustment clauses.

23 I want to talk with you a bit about the adjustment  
24 clauses that are included in there in just a moment. The  
25 revised tariffs are also included with the settlement before

1 you and they have been approved by staff, and the settlement  
2 also provides, through the tariffs, some increases in some  
3 miscellaneous charges. One of the important tariff design  
4 elements that staff pushed hard for was that we increase the  
5 monthly customer charge, the monthly minimum that customers pay  
6 by only 50 cents, and by increasing it only 50 cents, that's  
7 only a dollar since 1982, since this company has only had two  
8 rate increases before this commission in the last 24 years now.

9           So it's a minor change, it allows for a monthly  
10 minimum that actually goes up less than the average percentage  
11 increase. Other miscellaneous charges that are increasing are  
12 the connection charge for new customers is increasing from \$10  
13 to \$20, and the reconnection charge is increasing from \$10 to  
14 \$15. That reconnection charge is most typically associated  
15 with reconnections associated with disconnection of service for  
16 nonpayment.

17           The adjustment clauses are separate. They are each an  
18 annual adjustment clause. They each would be determined on a  
19 calendar year basis and would become effective March 1st, 2008  
20 at the earliest, and then March 1st of each year following. The  
21 first is the steam plant cost adjustment clause. It is a pass  
22 through of charges for fuel related to our steam generation.  
23 Currently Black Hills Power only has coal-fired steam  
24 generation. However, it's possible that you could have natural  
25 gas fired steam generation in the future. Unlikely, so we can

1 pretty much characterize this as the coal fuel pass through.

2           The costs for coal, as you are aware, are priced on a  
3 statement R methodology that's been approved and utilized by  
4 this commission for a couple of decades now. It is a utility  
5 type rate of return where the costs of mining the coal are  
6 included in the price associated with the return on the  
7 allocated investment in the Wyodak coal mine, which is an  
8 affiliate of Black Hills Power.

9           The transmission cost adjustment clause is again a  
10 traditional form of pass through fare tariff. It passes  
11 through Black Hills Power's costs associated with transmission  
12 service provided by other utilities on a wholesale basis,  
13 primarily under tariffs approved by the Federal Energy  
14 Regulatory Commission. And it is in a form where it, too, is  
15 on an annual basis, on a calendar year basis. Both the steam  
16 plant fuel cost adjustment and the transmission cost adjustment  
17 do provide for increased cost pass throughs and pass throughs  
18 of reductions in costs associated with coal or transmission.

19           The conditional energy cost adjustment is the  
20 innovative adjustment clause that's before you today. It is  
21 set up in a fashion where it is a risk sharing mechanism  
22 between customers and the company for the costs associated with  
23 natural gas, fuel oil and purchased power. In all  
24 circumstances when the company's total costs of natural gas,  
25 fuel oil and purchased power increases above the base charge as

1 provided for in the tariffs that you have before you by more  
2 than -- or by \$2 million, the first \$2 million is the  
3 responsibility of the company. After an increase on a total  
4 company basis of \$2 million, then the tariff provides for a  
5 formula approach where the company contributes support to those  
6 cost increases, dependent upon the net income of its power  
7 marketing business.

8           The cost reductions are also handled in a bit  
9 different way and in this case if the costs for natural gas,  
10 fuel oil or purchased power is reduced from the base charge as  
11 provided for in this application, then when that dollar amount  
12 is greater than \$1 million on an annual basis, 100 percent of  
13 South Dakota's share of those reduced costs would be refunded  
14 to consumers. And why we have structured it this way is our  
15 customers like rate stability, so each of the adjustment  
16 clauses are provided for on an annual basis. That provides  
17 stability and predictability in pricing once those adjustment  
18 clauses are known, and it also puts us in a position where the  
19 company is encouraged to work to contain costs, particularly in  
20 the purchased power area and to look for opportunities and  
21 maintain a strong and effective power marketing business.

22           The elements of the application we believe provide for  
23 just and reasonable rates. We have talked about the fact that  
24 we believe that it reduces both the risk to consumers and the  
25 risk to the company associated with volatility in the natural

1 gas and purchased power markets especially. We believe that  
2 approval of this rate increase and its associated adjustment  
3 clauses will help insure a successful future for Black Hills  
4 Power. And most importantly, we are convinced that with this  
5 rate increase, we will be able to continue to provide a high  
6 reliability of service and maintain the high customer  
7 satisfaction rate of 98 percent that our customers have enjoyed  
8 from this company. And we believe we can do that through the  
9 period of time of the rate freeze and potentially beyond.

10 So we thank you for the opportunity to be here today  
11 and we request that you approve with a bench order the  
12 settlement that is before you and cause the rates and tariffs  
13 incorporated in it to become effective January 1st, 2007.

14 CHAIRMAN JOHNSON: Thank you very much. At this point  
15 we would turn to -- if it's all right with my colleagues,  
16 perhaps we will just hold questions or comments until after we  
17 have heard from all the parties. We will proceed to the  
18 intervenors. Mr. Robert Lee, we have you on the phone. Would  
19 you like to make any comments?

20 MR. LEE: Yes, Chairman Johnson, Commissioners, I  
21 think Mr. White has fairly described the application for the  
22 increase and the settlement that was reached. I have very  
23 little to add other than we believe the staff has done an  
24 admirable job in negotiating a fair and equitable settlement of  
25 the issues and of course we are content with the arrangement

1 that we reached with the company and we endorse the stipulated  
2 settlement and urge you to adopt it. And I am available to  
3 answer any questions that the commissioners may have.

4 CHAIRMAN JOHNSON: Thanks very much, Mr. Lee. At this  
5 point we would turn to staff to see if Mr. Jacobson, Mr.  
6 Senger, Mr. Knadle, Mr. Bettmann, Mr. Solem or Ms. Cremer, to  
7 see what they have to add.

8 MR. SENGER: Thank you, Commissioners. This is Keith  
9 Senger from staff. On December 22nd, which would have been  
10 last Friday, we submitted a fairly detailed staff memorandum  
11 explaining all of staff's positions. And the first 13 pages is  
12 what I would say is written explanation of essentially  
13 everything that went on in staff's position. Thereafter is  
14 essentially what I would consider the meat of our case. It's  
15 all the numbers and how we got to the numbers where we are at  
16 today. I don't have a lot to add either. I think our memo  
17 details everything and we are certainly open for any questions  
18 that the commissioners or advisors may have.

19 CHAIRMAN JOHNSON: I think at this time we will open  
20 it up to commissioner and advisor comments or questions. I  
21 would note it's not very often you have somebody on staff turn  
22 100 years old. Today Greg Rislov has done that, so we will  
23 provide all due deference to Mr. Rislov whenever he has  
24 questions to ask. Welcome to the century club, Mr. Rislov.

25 MR. RISLOV: Thank you.

1 CHAIRMAN JOHNSON: Questions or comments by  
2 commissioners or advisors. Commissioner Kolbeck.

3 COMMISSIONER KOLBECK: I just have two questions. On  
4 page 12 it actually refers to new connect charges, I'm sorry,  
5 reconnect charges and nonsufficient funds. Is new construction  
6 or new customer to an existing prem, is that affected? Are  
7 those charges affected also?

8 MR. WHITE: Yes. The connection charge is for the  
9 establishment of a new electric account or to move into an  
10 existing electric account. So for example, if you were to move  
11 into an apartment, you would have a \$20 charge.

12 COMMISSIONER KOLBECK: Instead of, previously it was  
13 \$10, okay. And the other question I had was, are line  
14 extension charges, are they affected in this?

15 MR. WHITE: They are not. The tariffs that are  
16 incorporated in our rules and regulations continue to provide  
17 for the same line extension practices that we have had for  
18 about 16 years now.

19 COMMISSIONER KOLBECK: In effect, if someone was  
20 moving into an apartment in your area, the difference would be  
21 their 50 cent meter charge a month and \$10 to get hooked up?

22 MR. WHITE: And an increase in the energy charge as  
23 well.

24 COMMISSIONER KOLBECK: Thank you.

25 CHAIRMAN JOHNSON: Other questions or comments?

1 MR. SMITH: I have one, if I might.

2 CHAIRMAN JOHNSON: Proceed, Mr. Smith.

3 MR. SMITH: Kyle, I'm not sure whether this is you.  
4 I'm going to move to the document that's confidential, which is  
5 the settlement agreement, and I don't think anyone is in the  
6 room that would not be -- unless Bob Miller, if you care  
7 whether he hears.

8 MR. WHITE: I think that's up to Bob Lee. It's all  
9 right with us.

10 MR. SMITH: Bob Lee, do you care whether Bob Miller is  
11 in the room?

12 MR. LEE: No, that's fine.

13 CHAIRMAN JOHNSON: We do have the Internet on, Mr.  
14 Smith. I'm fine shutting it off. Does the question make sense  
15 to take now or would it make sense to take the confidential  
16 question at the end of questions?

17 MR. SMITH: However you want to do it. I wasn't sure  
18 whether maybe we were about at the end of questions, but if  
19 there are other questions, fire away first.

20 CHAIRMAN JOHNSON: Let's go ahead and do that, if you  
21 don't mind. You have nonconfidential questions, Mr. Smith?

22 MR. SMITH: One of them. Again, both the questions I  
23 have involve the confidential agreement, but I don't know that  
24 one of them is really confidential. I'll point you to where it  
25 is and it's 8B and take a look at that and you can tell me

1 whether you think that -- it doesn't look to me like something  
2 you would care about.

3 MR. LEE: I don't think that's confidential.

4 CHAIRMAN JOHNSON: I do have it. Do you want my copy?

5 MR. SMITH: No, I've got it here, thank you.

6 CHAIRMAN JOHNSON: Let's pause to make sure that  
7 that's okay with applicants.

8 MR. WHITE: Yes, that would be fine.

9 CHAIRMAN JOHNSON: Go ahead.

10 MR. SMITH: Okay, I think -- just explain to me -- I'm  
11 assuming, are you guys okay with us talking about this in  
12 public, right?

13 MR. WHITE: Yes. And it will affect the adjustment  
14 costs.

15 MR. SMITH: This is really not anything that isn't in  
16 there relevant to what's in there. And just so that I  
17 understand the way this works and the tariff incorporates the  
18 February 10th filing date and the March 1st effective date, and  
19 my assumption is, then, what we are talking about here is you  
20 file it on the 10th and that if a proceeding ensues, that we  
21 would conclude the proceeding relative to the February 10th  
22 filing by September 30th. Is that what we are agreeing to  
23 here? I'm just wanting to understand how this mechanically is  
24 supposed to work.

25 MR. WHITE: Let me explain to you how I understand it.

1 Historically, when Black Hills Power has had fuel and purchased  
2 power adjustments, they have been primarily informational  
3 filings, reviewed by staff and in the past implemented on a  
4 monthly basis. What the Black Hills Intervenors were concerned  
5 about is that when you are doing an annual filing covering the  
6 types of costs that these cover, that it have a bit of a more  
7 formal review process and so what this provides for is that the  
8 company would prepare its annual filing and submit it to the  
9 commission for its consideration and approval by February 10th.  
10 It would go into effect March 1st, yet there would be  
11 potentially a procedural schedule, if parties intervened, where  
12 it would be then subject to review and potential modification.

13           Should the modification occur, it really doesn't have  
14 any impact other than a change in rates because each of the  
15 adjustment clauses does provide for a balancing account, where  
16 over or under recoveries are then included in the subsequent  
17 year's filing, and they provide for interest on over and under  
18 recoveries as well. But it's essentially there to insure that  
19 the Black Hills Intervenors get an opportunity to participate  
20 and any other customers get an opportunity to participate as  
21 well. And so it's a process that the parties will get together  
22 and talk about what an application should look like and we will  
23 do that during the next year in anticipation of the February  
24 10th filing for each of the three tariffs in 2008.

25           MS. WIEST: Just for a follow-up question, this is

1 Rolayne Wiest, did you say that if the parties, if someone  
2 intervenes, then it would be subject to approval?

3 MR. WHITE: I think it is subject to approval. The  
4 question is how thorough of a process is required is dependent  
5 upon whether somebody intervenes.

6 MS. WIEST: So even if no one intervenes, it would  
7 still be subject to approval?

8 MR. WHITE: That's my understanding.

9 MS. WIEST: Thanks.

10 MR. SMITH: I think your comment was more along the  
11 lines of why would we be talking about so many months until  
12 September 30th to get at it, and certainly from what I've seen  
13 around here, it could go that long, depending on what happens.  
14 Is this something -- it's included in the confidential  
15 document, but is this something that you believe ought to be  
16 included in the public order that we issue here at this point  
17 in time? Because it would seem to be binding the commission  
18 right now to a procedural item that if we approve it, that  
19 probably should be out there for all to see.

20 MR. WHITE: I would agree.

21 MR. SMITH: The other -- my other question I think is  
22 going to go into a confidential area.

23 CHAIRMAN JOHNSON: Let's hold that. Thanks very much.  
24 Other commissioner or advisor comments or questions? Go ahead,  
25 Commissioner Hanson.

1           VICE-CHAIR HANSON: Thank you, Mr. Chairman. Good  
2 morning. First I'd like to say congratulations to everyone,  
3 not just Black Hills Power, but to the intervenors and to staff  
4 and especially appreciate the way everyone worked together. We  
5 have heard so many nightmares from across the United States on  
6 the challenges of rate making and having seen what has taken  
7 place, especially on the east coast and in some of the other  
8 areas where there's been requests for 35 percent and 40 percent  
9 and 70 percent rate increases. You can imagine as public  
10 utilities commissioners, we are a little bit concerned when we  
11 hear that there's going to be a rate case and especially from  
12 the standpoint of having gone through it and read all of the  
13 work that's been prepared for us, I sincerely appreciate the  
14 thoroughness of staff and the way that folks have gotten  
15 together and worked through this process.

16           I have a few questions on just a couple of things that  
17 I want to make certain brings me up to speed. One is a  
18 curiosity on the conditional energy cost adjustment that you  
19 have been calling CECA you call it. Kyle, you have referred to  
20 it as being innovative. Are you aware of other utilities using  
21 this type of program?

22           MR. WHITE: I am not. We did not do a very thorough  
23 review. We essentially looked at what would work well for our  
24 customer base and for our business and we designed it in a  
25 custom way to support what we believe our needs are and then

1 through the negotiations, both with the Black Hills Intervenors  
2 and with staff, it was further modified, so it is an adjustment  
3 clause that will be tested in the next three years. We think  
4 it works well. Our model of risk sharing, particularly the  
5 last 11 years, is a bit unique, and we believe provides  
6 benefits to consumers and that's what we are about.

7 VICE-CHAIR HANSON: Thank you. It looks like it's an  
8 interesting process. If I were your customer, I would think it  
9 would be a great opportunity, an opportunity to basically  
10 almost participate as a stockholder. It's an innovative idea.  
11 I appreciate it. Keith, are you aware of any other systems  
12 that use this?

13 MR. SENGER: I know that there's other companies out  
14 there throughout the United States who have incentives in their  
15 adjustment clauses, if they do have adjustment clauses, but I  
16 do not know of any that functions like this.

17 VICE-CHAIR HANSON: Thank you. Keith, one question on  
18 your memo to us. On page five you refer to the depreciation  
19 expense and accumulated depreciation. At the bottom of that  
20 paragraph, you point out that the net of the adjustments for  
21 depreciation increase the total company depreciation expense by  
22 approximately \$936,000 and the accumulated depreciation by  
23 approximately \$468,000, and yet I see on page 10 that after you  
24 have gone through the process on the depreciation expense, that  
25 it resulted in a decrease in depreciation expense for South

1 Dakota of approximately \$165,000 and a decrease in accumulated  
2 depreciation for South Dakota of approximately \$82,000. And  
3 I'm real curious how an increase of \$936,000, nearly one and a  
4 half million becomes a decrease for South Dakota of nearly  
5 \$200,000. I think that's excellent work on your behalf.

6 MR. SENGER: Well, I do have to say that the way staff  
7 structured our adjustments, it doesn't -- it's not quite as  
8 good as it looks on the memo. When Black Hills Power, when  
9 they did their adjustment, essentially they took their net  
10 plant and they added in all their adjustments and then they  
11 turn around and they recalculated, because they changed their  
12 depreciation rates based on a study that they had. So their  
13 adjustment was one fail swoop adjustment, they came through and  
14 adjusted depreciation for the rate change and for the increase  
15 in plant.

16 When staff came through, we did our adjustment  
17 separately. When we amortized account 106, we -- excuse me,  
18 when we annualized account 106, we calculated our depreciation  
19 in there. When we added plant in, we calculated our  
20 depreciation in there. So our depreciation increases are  
21 actually further up in staff's part of the memo when it talks  
22 about the plant adjustments. If you look there, we have  
23 increases in depreciation there, and I can point out to you  
24 specifically what pages they would be on. Probably page nine.

25 When you look at page seven when it says rate base

1 issues, we have plant additions and we have annualization.  
2 That's where we take account for the accumulated depreciation,  
3 and on the bottom of page nine, it discusses it, too. But  
4 essentially when you see that decrease in depreciation, that  
5 was just one of three adjustments that staff made and that was  
6 merely for taking test year rate base and calculating the new  
7 depreciation on it, because when Black Hills submitted their  
8 depreciation study, overall that lowered their depreciation  
9 when you take it as a single item. So that calculation that  
10 you see where we actually decreased accumulated depreciation  
11 and depreciation expense was merely for the test year rate base  
12 calculation on the new rates.

13 VICE-CHAIR HANSON: Thank you. I appreciate your  
14 discussion on the depreciation. I made notes on the margin on  
15 the transmission plant, the plant additions, the annualization  
16 of account 106 and I wanted to discuss those with you after  
17 this had been resolved, simply because I didn't think that that  
18 type of discussion might be real interesting or germane to  
19 what's taking place here today. But I'm curious on the  
20 different types of depreciation, if there's different types  
21 that are used for those areas. I also wanted to engage you  
22 after this was settled on the basis of a test year versus  
23 forecast year and get some thoughts from you on that as well.  
24 But we won't engage in that at this time.

25 There were a couple other questions that I have, but I

1 think what I'll do is pause and see if someone else has some  
2 questions at this point. Thank you very much, Mr. Chairman.

3 CHAIRMAN JOHNSON: You bet. I do have a few  
4 questions. My first question deals with the Mayer Radio issue  
5 and I guess I'll make this an open question to staff or  
6 intervenors or applicants, but first maybe I'll look to staff.  
7 I mean, is the way this -- give me your reflections on how this  
8 is being handled here in this element. I understand you are  
9 bound to support this element before the commission.

10 MR. LEE: This is Bob Knadle from staff. Essentially  
11 what happened on the Mayer Radio adjustment was Black Hills  
12 Power and Light had a subsidiary that Mayer Radio was under in  
13 the corporation and during the test year they did charge Black  
14 Hills Power for the services they provided to them. I believe  
15 it was in January or early 2006 Black Hills Power bought Mayer  
16 Radio and so what the adjustment does is reflect what they paid  
17 for Mayer Radio and they also included in the filing is they  
18 made some improvements to Mayer Radio to make the system  
19 better.

20 Basically it was related to the communications systems  
21 for Black Hills Power and so they can communicate with each  
22 other when they go out in the field and look at their lines and  
23 see if there's any problems or anything like that. And so what  
24 the adjustment does is basically incorporate that into their  
25 rate base and they do have a little bit of revenues from Mayer

1 Radio that they had like two or three different customers that  
2 they just didn't want to cut off so that's still included in  
3 there and there is an adjustment for revenues related to that.  
4 And staff also purged the expenses that were charged to Black  
5 Hills Power in the test year, we made a specific adjustment to  
6 that for Mayer Radio. Hopefully that answers any questions  
7 related to that.

8 MR. WHITE: Maybe I can give you some background as to  
9 the importance of this acquisition. Mayer Radio was the radio  
10 communications provider in the Black Hills for a long, long  
11 time, and because of the terrain in the Black Hills, it's  
12 difficult to put in these types of radio communications  
13 systems. And Black Hills Power for years has been the largest  
14 customer of Mayer Radio and we utilized that to provide safe  
15 and reliable service to our customers and it's been primarily  
16 radio communications between our dispatch and our service  
17 trucks and line trucks, particularly important during storm  
18 restoration processes.

19 As wireless communications have changed, that business  
20 really was shrinking and Jack Mayer decided about three years  
21 ago to retire. Black Hills Fibercom saw an opportunity to look  
22 at those tower sites that were available and then really didn't  
23 enter into that business, but with Black Hills Power being the  
24 largest customer and solely dependent upon that system, we then  
25 acquired it as a corporation and moved it into Black Hills

1 Power this year.

2 We are in the process of upgrading that system. The  
3 system is 40 years old, I believe, which means it's very  
4 difficult to get parts and at times impossible to get parts.  
5 We have retained a couple of the key employees as Black Hills  
6 Power employees now and it is going to be a system that is  
7 primarily for the support of Black Hills Power's operations,  
8 but we will continue to provide service to some customers if  
9 they continue to want to buy our services. But it is now  
10 essentially a utility asset.

11 CHAIRMAN JOHNSON: Mr. Senger.

12 MR. SENGER: Essentially what staff's adjustment did  
13 in real simple terms and we made it look -- we did our best to  
14 make it look like Black Hills Power had owned and operated  
15 Mayer Radio during the test year. That's essentially -- we  
16 took consideration expenses, employees, revenues, and adjusted  
17 the test year to make it appear as if it was there for the  
18 whole time, thus a known and measurable adjustment.

19 CHAIRMAN JOHNSON: Are you marketing this service?

20 MR. WHITE: No.

21 CHAIRMAN JOHNSON: Are you taking new customers?

22 MR. WHITE: No, we don't intend to.

23 MR. EVANS: Keith referenced maybe three customers  
24 that we have kept. They are large customers of Black Hills  
25 Power. They were also reliant upon Mayer Radio, so we continue

1 to service their radios for them as a courtesy to them and it  
2 creates revenue, which is offset in our revenue requirement as  
3 well.

4 CHAIRMAN JOHNSON: I presumed that the revenue was  
5 offset, I was just sort of curious if there was active  
6 marketing going on, if new customers were coming on board, how  
7 that revenue would be treated. It sounds as though that's not  
8 the case.

9 MR. EVANS: That's not the case. In fact Mayer Radio  
10 consists of two employees. It's not a large company, it's two  
11 technicians we brought on board.

12 CHAIRMAN JOHNSON: Question for staff. The customer  
13 charges moving from seven and a half to eight dollars on the  
14 residential side, can you give me an idea of how that compares  
15 with other customer charges and IOUs in the state, if it's on  
16 the low end, middle?

17 MR. JACOBSON: I don't have those numbers right in  
18 front of me -- this is Dave Jacobson of staff -- but it is  
19 comparable. Some of our companies I know are higher than that  
20 and some are lower. So it's in the middle range I would think.

21 CHAIRMAN JOHNSON: Thanks. Vegetation management, it  
22 seems as though I forget the exact number, something like  
23 \$730,000 is being allowed as an expense on that. I don't know,  
24 I think in the staff memo it was noted that was considerably  
25 higher than the three- or five-year average. Perhaps staff

1 could address why they felt comfortable allowing a much higher  
2 number there.

3 MR. SENGER: Originally we had made an adjustment to  
4 Black Hills Power and during the settlement -- to actually  
5 decrease that expense. Black Hills Power made it very clear to  
6 us that because of circumstances that have taken place and some  
7 litigation that has taken place, that they have updated their  
8 vegetation management plan and thus they have agreed to spend  
9 that much. You know, all I have to do is say the word forest  
10 fires and I think it probably sums everything up. They have  
11 agreed to spend that much on an average, I think it was an  
12 average over several years, to spend that each year to keep the  
13 vegetation down around transmission, distribution lines that  
14 are applicable here. And staff believed that that was -- they  
15 indicated to us this was going to -- although it was an  
16 increase in their expense during the test year, they indicated  
17 to us it was going to be an ongoing expense and thus we  
18 believed it was appropriate to leave it at that amount and  
19 Black Hills Power further agreed to actually promise that they  
20 would spend that much.

21 CHAIRMAN JOHNSON: Is there I will call it a claw back  
22 provision, that's probably not the right technical term, but is  
23 there a subject to refund, if those expenses are not spent,  
24 invested, that at the next rate case, that that will be  
25 reviewed?

1 MR. WHITE: Yes, the settlement does provide for  
2 review of that commitment. It's not specific as to what would  
3 happen, but it's understood by the parties that that issue  
4 would be a problem at the time of the next rate increase that  
5 would need to be addressed.

6 CHAIRMAN JOHNSON: You have noted in your application,  
7 Black Hills Power noted in its application that there was  
8 revenue deficiency of approximately \$14.4 million and that you  
9 were requesting less than that and then this settlement  
10 provides for even less than that. Should we view this as a  
11 guarantee that the next rate case will be sooner rather than  
12 later?

13 MR. WHITE: Well, no one would have predicted in 1995  
14 how long out we would be able to go. The business changes much  
15 more quickly than it historically has and so I don't believe  
16 there is any good way to predict whether this causes the next  
17 rate case sooner or not, other than to know that had we had  
18 greater revenues, that certainly does defer the need because  
19 you have greater returns and greater earnings. We are  
20 comfortable that we can function properly and provide a high  
21 level of customer service during the three-year rate freeze.  
22 Beyond that, we are not making any predictions.

23 CHAIRMAN JOHNSON: We have talked about three  
24 adjustments and I think in your testimony, Mr. White, you  
25 indicated that that would be, although there are three separate

1 calculations, that on the customer bill, they show up as a  
2 single line item, and I just want to verify that that's  
3 correct.

4 MR. WHITE: That is our intent.

5 CHAIRMAN JOHNSON: On page 12 -- a question for staff,  
6 on page 12 of the memo, halfway down the page, you note that --  
7 we are talking about CECA here and the \$1 million on the down  
8 side and it says cost decreases to customers once those costs  
9 decrease by more than \$1 million as measured on a per kilowatt  
10 hour basis. I think I understand the CECA, but the phrase "as  
11 measured on a per kilowatt hour basis," I wanted to make sure  
12 that I understood that.

13 MR. SENGER: That was something we tried to clarify.  
14 There could be a circumstance where costs decrease by \$2  
15 million but because the per unit, the kilowatt hours delivered  
16 actually decreased by a substantial amount also, so that when  
17 you calculate it on a per kilowatt basis, and it also goes on  
18 the same way on the \$2 million increase, we have to calculate  
19 it on a per kilowatt basis and then multiply it because --  
20 multiply it times their usage to find out what it is on a per  
21 kilowatt basis, so that's how we calculate the \$1 million.  
22 It's not just strictly a million dollar decrease or the \$2  
23 million increase on the up side, it's got to be calculated on a  
24 per kilowatt basis so we know that that's essentially what the  
25 million dollars and the \$2 million on the up side is referring

1 to.

2 CHAIRMAN JOHNSON: It's normalized for usage; is that  
3 a way to look at it?

4 MR. WHITE: Yes, and for good reason. The rates that  
5 are before you today provide for energy charges that include a  
6 component for natural gas, fuel oil and purchased power, and so  
7 that base charge that's provided for in statement P is  
8 incorporated in those rates, so it's a comparison to  
9 essentially the base rates and has there been a change in that  
10 component cost.

11 CHAIRMAN JOHNSON: I think the last one I've got right  
12 now deals with the agreement with the intervenors and the  
13 question I'm asking is not contained in the confidential, it's  
14 contained in the staff's memo, and there is a difference in the  
15 increase that the intervenors are getting as opposed to what  
16 has been agreed to on a company-wide basis and I just -- I  
17 think it's worth noting and verifying that that reduction, that  
18 that's basically coming out of Black Hills Power's revenue  
19 requirement, that you all are stepping forward with that  
20 \$85,000 and that that's not coming out of the system or out of  
21 the ratepayers.

22 MR. WHITE: That's correct. The company had requested  
23 an across the board rate increase and to the extent that there  
24 was a reduction in that percentage necessary to settle with the  
25 industrials, our shareholders have accepted a lower revenue

1 increase.

2 CHAIRMAN JOHNSON: I do have one other question, again  
3 about the CECA. It seems interesting that on the \$1 million  
4 side, on the cost reduction side, that once more money is saved  
5 than that, that 100 percent of those savings go to the  
6 ratepayer. I think that's great for the ratepayer, but does it  
7 provide -- a question to staff, does it provide a bit of a  
8 disincentive for the company to -- isn't there an opportunity  
9 for a company to make sure that they save \$999,000 rather than  
10 \$1.5 million?

11 MR. SENGER: You know, you could look at it that way.  
12 I know that Black Hills Power does everything that they can to  
13 keep their rates as low as they can for their customers because  
14 when their rates go up, they have customers call the  
15 commission, customers call the company and complain, and I can  
16 understand that, but one thing we do have to remember is on  
17 the -- we try to find some sort of a mechanism, because they  
18 were taking the risk on the top side of \$2 million of  
19 increases, so we had to give them something and this gave them  
20 a stability range where there's a \$3 million swing in rates,  
21 whether it's down a mil or up \$2 million, where the customers  
22 aren't going to see anything. And that was one of the concerns  
23 that staff had and this is what the company proposed back to  
24 us. We looked at it and we thought it was a workable issue,  
25 and one could say that. I don't believe that Black Hills Power

1 is going to strive to save \$999,000, and plus they are not  
2 going to know technically until the end of the year.

3 CHAIRMAN JOHNSON: I think your comments are taken  
4 very well by me. Of course Black Hills Power wouldn't game the  
5 system in that way, but isn't it interesting that this  
6 mechanism doesn't reward the company for saving even more  
7 money, that there's not a split as opposed to -- not only past  
8 the \$1 million but in fact the \$1 million it would have saved  
9 prior? It's not a big enough issue for me to be interested in  
10 scuttling the settlement necessarily, but I was curious from a  
11 design perspective if this makes sense.

12 MR. SENGER: If we would have proposed a sharing  
13 mechanism on the bottom side, a percentage, company gets 50  
14 percent, customers get 50 percent or some other percentages, we  
15 believe it would have meant in the end it would have meant less  
16 in the customers' pockets, because we have shared it. The way  
17 natural gas prices have been fluctuating and growing and  
18 everything, you know, I will say that it's hard to look out in  
19 the future and to know what's going to happen, but based on  
20 what we have seen in the last five, six years, I think it's  
21 safe to say that costs probably aren't going to go down by huge  
22 amounts.

23 The price of natural gas and purchased power are going  
24 to be increasing. There may be some decreases, but the  
25 fluctuation is going to be on the upward trend, so the chances

1 of, you know, huge changes, and we just are small and we saw  
2 this as one of the biggest benefits for the customers to  
3 actually put money back in the customers' pockets if costs do  
4 ultimately decrease.

5 MR. JACOBSON: I would like to add this is one of the  
6 items that we discussed among staff and with the company and  
7 what we -- kind of the conclusion we came to is that this is  
8 going to be subject to our annual review and I believe even the  
9 company stated that as time goes by, we are going to see what  
10 the results of this adjustment is and we are able to step in at  
11 any time on any indication that it's not working as we  
12 proposed, so no, we are not ironclad what the exact results are  
13 going to be, but we do have the ability to step in at any time,  
14 at the annual review or any other time if we suspect things are  
15 going lopsided or one way or the other.

16 MR. WHITE: Let me give you my perspective on it,  
17 Commissioner. The range, as Keith talked about, provides for  
18 stability and it would be our hope that the conditional energy  
19 cost adjustment stays at a zero annual. We are within that  
20 range and the customers see price stability. Our feeling was  
21 that if rates drop or costs for natural gas and purchased power  
22 drop materially, that there was something happening in the  
23 marketplace and for us to keep part of that first million  
24 dollars because of changes in that marketplace would be  
25 difficult to explain to customers. Explaining to customers

1 price stability is relatively easy. Explaining to them a  
2 windfall when the markets drop materially would be more  
3 difficult and difficult in the proceedings that we would have  
4 each year. So we accepted that should we have a material  
5 difference in those costs, customers would receive 100 percent  
6 of the benefit.

7 CHAIRMAN JOHNSON: I get it now. Thanks very much.

8 MR. SENGER: I would like to add one more thing, too,  
9 that helps continue the incentive on keeping costs down, is  
10 Black Hills Power does operate a power marketing and they are  
11 incented on their own through their power marketing function to  
12 keep costs low. They are going to want to keep their costs as  
13 low as they can and they can't distinguish between -- in the  
14 end the customers always get the lowest cost energy, but they  
15 are constantly going to be striving because the lower they can  
16 keep their costs on for the power marketing side of it, the  
17 lower -- the higher margins they possibly make when they are  
18 selling that power to nonnative load customers, so therefore,  
19 they are incented that way also.

20 CHAIRMAN JOHNSON: That's helpful, too. The point  
21 that -- frankly, the other incentives in the system vastly  
22 outweigh this. I think that's helpful. Other questions or  
23 comments from commissioners or advisors?

24 MR. RISLOV: I would have a couple. This is Greg  
25 Rislov and just a couple questions. And the first would be

1 with regard to the crystal ball you brought along with you  
2 today. The question arose yesterday, how predictive is the  
3 base cost of fuel in the steam clause? How predictive is that  
4 of the future? We all understand how things can change, but  
5 there is a certain relationship between ownership of the coal  
6 mine and the power plants and the customers you serve, and we  
7 all know that for the past decade or so, you have had stable  
8 rates, and I guess I'm not looking for odds, but at least a  
9 comment from the company on where they think the so-called dead  
10 band in the CECA and the way the adjustment clause is  
11 structured, are we likely to see some stability for the  
12 foreseeable future that your customers are somewhat used to in  
13 the fuel clause?

14 MR. WHITE: We have three adjustment clauses and  
15 certainly the transmission system in the west needs improvement  
16 and there's a potential that we will see increased costs  
17 associated with transmission. Now, whether that's an increased  
18 cost on a per kilowatt hour basis, that's hard to say because  
19 our system is growing. But there is a trend towards increasing  
20 transmission costs.

21 For our affiliate coal mine, we are now north of the  
22 interstate in a new pit and what we are experiencing is a  
23 doubling of the overburden and so we do have an expectation  
24 that because of that increased overburden, we will have an  
25 additional shift and some additional costs that will pass

1 through. We also, though, are working to attract additional  
2 sales for that mine, which can help mitigate some of those cost  
3 increases, and in fact at the end of 2007, we expect to put  
4 into service another 95 megawatt coal-fired power plant to  
5 serve our customers in Cheyenne. And that will help mitigate  
6 some of those costs.

7           So there's a trend towards slightly increasing costs  
8 for coal. The west is increasing potential of transmission.  
9 The natural gas prices have been lower again. Purchased power  
10 prices have been lower, but they are more volatile than we have  
11 experienced in the past, so the conditional energy cost  
12 adjustment I think is more a condition of volatility in future  
13 markets than predictability of any particular trend. And so we  
14 may see some years where we do have a conditional energy cost  
15 adjustment, but our hope is that the combination of the risk  
16 sharing and the power marketing net income credits will  
17 mitigate any material increases for customers.

18           MR. RISLOV: Not to belabor the point that's been made  
19 over and over again this morning, but in regard to the CECA and  
20 thinking about the downward side, the million dollar reduction  
21 in costs, if it goes to a million one, it all goes back to the  
22 customers, at least it struck me that there is some thought,  
23 and I guess I'm directing this at you, there is some thought  
24 that if costs do go down, and again it was mentioned, there  
25 will be additional power marketing opportunities if everything

1 else remains equal, and frankly, there's the situation where  
2 even though it looks like somewhat of a disincentive, there's a  
3 chance for everyone to benefit, if we see the costs go down.

4 MR. WHITE: Yes, there is.

5 MR. RISLOV: It would be a wonderful world at that  
6 point.

7 MR. WHITE: One we look forward to.

8 CHAIRMAN JOHNSON: I know we have some confidential  
9 questions, but are there any other nonconfidential questions?  
10 Commissioner Hanson.

11 VICE-CHAIR HANSON: Thank you, Mr. Chairman. Kyle, in  
12 your opening remarks, you gave a really good overview of the  
13 agreement, I appreciate that very much. And you touched on  
14 some of the challenges from your standpoint of getting  
15 information out to the consumer. A couple of areas I am  
16 particularly interested in and curious about how you intend to  
17 engage the consumer. The first is the difference in the rate  
18 with the Black Hills Intervenors and the second is the  
19 relationship with an adjusted fuel clause. I understand that a  
20 lot of your customers have not had the adjusted fuel clause and  
21 so those would be two areas that I think that are going to be  
22 of interest to them. How do you plan to work your public  
23 relations with them on those two issues?

24 MR. WHITE: Well, we have been working our public  
25 relations since we filed the case and we believe that our

1 customers understand the need for the increase, as evidenced  
2 by the contacts we have received, which have been minimal, by  
3 the interventions, which were just four customers, by the  
4 contacts the commission has had. We believe that there is an  
5 acceptance of the rate increase, even at the announced nine and  
6 a half percent level, and so the difference between the seven  
7 percent and the 7.9 percent is a slight difference in our mind.  
8 There are other provisions that the intervenors have accepted  
9 which mitigate that. They are confidential, but they do  
10 mitigate that difference.

11           When it comes time to have the adjustment clauses go  
12 into effect, we will address that, but we will have had, again,  
13 another 14 months of rate stability. It's hard to tell whether  
14 those will in fact have some offsets where we may see some  
15 decreases associated with increases through those three  
16 adjustments. We will continue to educate our customers. We  
17 will educate our staff. That process has begun already in that  
18 our customer service representatives have been in training  
19 yesterday and today in anticipation of a potential approval  
20 here.

21           We will have a notice incorporated in our January and  
22 February bills that discuss this rate increase and provide  
23 comparisons. We are prepared. We think that our high customer  
24 satisfaction level, the fact that it's been over 11 years and  
25 the volatility they have experienced in their other consumer

1 goods will allow this to go through relatively easily.

2 VICE-CHAIR HANSON: We appreciate the  
3 comprehensiveness of your public relations and getting that  
4 information out and how you handle it, the fact that you have  
5 additional staff schooled on how to explain it to your  
6 consumers, because ultimately, our consumer affairs division  
7 receives phone calls if utilities cannot handle those well  
8 enough and properly, then our folks end up having to answer the  
9 phone a lot more often and go through a lot more work, so we  
10 appreciate your anticipation of those challenges and taking  
11 care of them.

12 The last question I believe I have is for staff on  
13 transmission cost adjustment. I understand it's fairly simple  
14 dollar for dollar pass through. What my concern is potential  
15 for gaming a system by selling to a subsidiary with the RTOs  
16 and -- let me ask this question. Is there a potential for  
17 gaming a system when you have a pass through on a transmission  
18 cost adjustment where -- I won't give you the for instance that  
19 I'm thinking of. I just want -- I'm just mainly curious  
20 whether or not it's possible for a company to enrich another  
21 company, such as the subsidiary, by paying higher transmission  
22 costs than otherwise they would have to.

23 MR. SENGER: The only costs -- the costs that are  
24 being passed through would be a FERC tariffed cost. Those are  
25 the costs and it's the costs that Black Hills Power would pay

1 for those FERC tariff rates.

2 VICE-CHAIR HANSON: So there isn't an opportunity for  
3 a subsidiary or another company owning transmission lines to  
4 charge a higher price to Black Hills in order for Black Hills  
5 to pass additional revenue to that company?

6 MR. SENGER: I can't think of anything, because  
7 everything would be FERC tariffed price that they pay and I  
8 can't think of any circumstance where they could game the  
9 system. Certainly Black Hills would probably know better than  
10 I, but. . .

11 VICE-CHAIR HANSON: Shall I ask you that question? I  
12 just want you to know I would ask that question of anyone. I'm  
13 sure I 100 percent trust you folks and you trust us, but  
14 there's going to be someone else potentially in your spots  
15 five, 10 years from now. Just curious.

16 MR. WHITE: I think the scenario where you are at risk  
17 is if we bought unneeded transmission capacity from a  
18 subsidiary or an affiliate. We currently don't have any  
19 affiliates where we would be buying any services from. But  
20 that's one of the reasons why you have the opportunity to  
21 review the filing on an annual basis and require the company to  
22 demonstrate the prudence in its transmission acquisitions. So  
23 I think the safeguards are certainly there, if anyone was  
24 tempted to do something like that.

25 VICE-CHAIR HANSON: Thank you very much.

1           MR. WHITE: I think you should also recognize that  
2 there is an incentive in that for our transmission service,  
3 South Dakota isn't 100 percent of our transmission costs and to  
4 the extent that we would buy unnecessary transmission in  
5 jurisdictions where we don't have a transmission cost pass  
6 through, we are going to eat those costs. So I don't see a  
7 scenario where Black Hills Power would even be tempted to do  
8 something like that. It would be against our ethics policy  
9 anyway.

10           VICE-CHAIR HANSON: Thank you. I'm sure it would be.  
11 Thank you very much. It's an interesting answer, I appreciate  
12 it. I do very much again appreciate all of the information,  
13 the way it was provided to us and it was very easily understood  
14 and I appreciate all the work that everyone went to. Thank  
15 you, Mr. Chairman.

16           CHAIRMAN JOHNSON: You bet. We have talked a little  
17 bit about number of contacts that the company or that the staff  
18 has received. I heard at one point the number of folks that  
19 had contacted the commission on this docket and it was a  
20 relatively small number. I guess I'll check again. Do we know  
21 how many consumer contacts we have had?

22           MR. JACOBSON: I haven't checked with Deb downstairs  
23 lately, but as of about -- about the last time I checked was a  
24 month ago and at that time it stood at nine contacts. Those  
25 are of course available for commission review, but Deb had

1 indicated to me that some of those were merely somewhat like  
2 inquiries rather than outright complaints. So she said it was  
3 minimal.

4 CHAIRMAN JOHNSON: Thanks. We do have Bob Towers on  
5 the line and Mr. Towers has acted as a staff consultant. Mr.  
6 Towers, I know you, in your years in the industry, you have  
7 done a lot of these. I might just check with you to see if you  
8 have some comment on the settlement before the commission and  
9 your opinions on it.

10 MR. TOWERS: I think it's a reasonable settlement.  
11 The case is a bit unusual and fairly complicated because of the  
12 things that were just happening and kind of difficult for the  
13 staff to get a handle on. For example, the company had only  
14 recently set up a service company organization, that actually  
15 became effective I think on January 1 of 2006. So looking back  
16 at 2005 as a base year for a revenue requirement determination  
17 required that -- requires that we look forward to see how this  
18 new service company situation was going to operate and whether  
19 we thought it was reasonable or not. We did address that issue  
20 among staff and in the negotiations dealt with that issue with  
21 the company and ended up making some changes that are reflected  
22 in the settlement stipulation to improve the methodologies that  
23 have been adopted in the service company setup.

24 The fact that the company has not been in for a rate  
25 review in 10 years meant that there was somewhat of a learning

1 curve for the staff on every front to understand better how the  
2 company operates, what causes its costs to be incurred and then  
3 how to evaluate what occurred during the test year and what's  
4 likely to -- what would be reflective of the immediate future,  
5 plant additions, customer growth and that sort of thing.

6 I think without going through the memo that Keith  
7 prepared item by item, there was just a reasonable meeting of  
8 the minds on how the issues could be resolved in a way that was  
9 fair to the company and to ratepayers, so I certainly support  
10 the settlement agreement.

11 CHAIRMAN JOHNSON: Thanks, Mr. Towers. Are there  
12 other nonconfidential questions or comments at this time? Mr.  
13 Smith, did you have one?

14 MR. SMITH: I had one sort of following up on  
15 Commissioner Hanson's concerns about the transmission flow  
16 through, but turning to the CECA, if I understand, it's under  
17 power marketing net income, that paragraph B, and to me at  
18 least under power marketing is where there's much more of a  
19 possibility for shenanigans, as some commissions have found  
20 around the country, where in effect you game your own  
21 generation against the market. As I understand that paragraph  
22 B, what that does is commits -- you have made a commitment  
23 under paragraph B that you will always dedicate your lowest  
24 cost generation resources to the regulated customers in South  
25 Dakota.

1           MR. WHITE: That's correct. And that is a condition  
2 regardless of what resources were necessary to meet the  
3 customers' requirements.

4           MR. EVANS: That's also something we have been doing  
5 for quite some time, for a number of years. I don't know how  
6 many years off the top of my head, but quite some time.

7           MR. SMITH: The other question I have gets into  
8 confidential materials.

9           CHAIRMAN JOHNSON: Other nonconfidential questions or  
10 comments at this time? For those listening on the Internet, we  
11 will briefly shut off the Internet so as to be able to ask  
12 questions specific to an agreement between the Black Hills  
13 Intervenors and Black Hills Power which has been filed as  
14 confidential with this commission. After we are done with that  
15 line of questioning, we will come back, turn the Internet back  
16 on, see if there are other questions or comments and if  
17 appropriate, take action at that time. So I wouldn't expect it  
18 would be more than a few minutes certainly. At this time we  
19 are shutting off the Internet and the room is being cleared of  
20 folks who shouldn't be here.

21           (Whereupon, a discussion regarding matters deemed  
22 confidential was held.)

23           CHAIRMAN JOHNSON: Thanks. We are back on the  
24 Internet and we are done with closed session where we discussed  
25 a confidentially filed settlement agreement between Black Hills

1 Intervenor and the applicant. Are there other questions or  
2 comments by commissioners or advisors at this time? We will  
3 note for the record we have had confirmation from our director  
4 of consumer affairs that we have had nine consumer inquiries  
5 related to this docket. Thanks, Mr. Jacobson and to Deb Gregg.  
6 Other questions or comments. If there aren't any, a motion is  
7 in order. Mr. Smith, you have got your mike on.

8 MR. SMITH: I was actually turning it off.

9 CHAIRMAN JOHNSON: My apologies. If there aren't any  
10 questions or comments, a motion is in order. I would move that  
11 the commission -- I guess I'll preface this by noting that this  
12 is the tough work for commissioners and commissions, you know,  
13 rate adjustments, rate increases, they are not the best part of  
14 the job, but I think if there was going to be a rate case that  
15 was going to be less painful, I don't think this rate case is  
16 particularly painful as a commissioner because we are talking  
17 about inflation has gone up 28 percent in the last decade. We  
18 are talking about what I think is a modest increase in rates.  
19 It's fair and reasonable, as staff and the intervenors and the  
20 applicants and our outside consultant have all indicated that  
21 they think it is fair and reasonable.

22 And I also think that it's a little bit easier when  
23 you have got something like an incentive mechanism with the  
24 CECA we have talked about and it's also a little bit easier  
25 when you have a company like Black Hills Power that has

1 endeavored and worked pretty hard to gain not necessarily the  
2 trust of this commission, that's nice to have, but I think it's  
3 even more important that it's the trust of their customers,  
4 their ratepayers, and we have not heard an outpouring of  
5 outrage about this. I think people understand that over time  
6 costs do go up and there are not a lot of other things in life  
7 we buy on a daily basis that have not gone up in the last 11  
8 years.

9 With that, I would move that the commission approve  
10 the joint motion or rather grant the joint motion for approval  
11 of the settlement stipulation. I'll make that motion first.

12 VICE-CHAIR HANSON: I will second the motion and I  
13 appreciate everything that you just said. I concur with  
14 everything that you just said and I would just simply add that  
15 not only is this not painful for me as a commissioner to have  
16 gone through, which I abhor rate cases, but it was much, much  
17 easier than what I had anticipated this one would be. I just  
18 do not see this being painful at all for the consumer and that  
19 is extremely delightful for me as a commissioner to vote on  
20 something that on a rate case challenge that is fair and  
21 justifiable and reasonable for the ratepayer. Thank you folks,  
22 all of you again.

23 COMMISSIONER KOLBECK: I would first thank staff for  
24 all their hard work and hours they put into this and Black  
25 Hills Power for an admirable, very trustworthy approach to a

1 rate increase. I very much appreciate that. I will concur.

2 CHAIRMAN JOHNSON: With that, the motion is made,  
3 seconded and passes. I will also move that the confidentially  
4 filed agreement between the intervenors and Black Hills Power,  
5 that the commission accept that or rather approve that as a  
6 contract with deviations and before asking for a second on it,  
7 I would maybe verify that's the proper wording.

8 MR. SMITH: I think it is. Rolayne, any suggestions?  
9 Yes, I think it is.

10 CHAIRMAN JOHNSON: So moved.

11 COMMISSIONER KOLBECK: Second.

12 VICE-CHAIR HANSON: I concur.

13 CHAIRMAN JOHNSON: Motion carries. I will just note  
14 my two colleagues have done better than I have, but I do feel  
15 the need to pile on and that is thanking all of the parties for  
16 how easy this was and not to cast the vote but also to  
17 understand. I know if you read through staff's memo, it's  
18 evident to me that this was more than a cursory glance  
19 certainly, it was an incredible amount of due diligence done  
20 and I certainly appreciate in a very sincere way all of the  
21 efforts that staff put into this. With that, unless there are  
22 any other --

23 MR. SMITH: One last thought and maybe I'll defer to  
24 Ms. Cremer, if need be, or staff. Should we have a separate  
25 motion approving the tariff filing? Did someone on the phone

1 have something to say?

2 CHAIRMAN JOHNSON: That was a cough.

3 MR. SMITH: Should there be a separate motion to  
4 approve the tariff as filed?

5 MR. JACOBSON: Actually the joint motion addresses  
6 approval of the settlement and the tariffs are attached to the  
7 settlement, so if you approve the joint motion, that follows  
8 right through to the tariffs, too.

9 MR. SMITH: Thank you.

10 CHAIRMAN JOHNSON: Does anybody have any other  
11 business to come before this commission? Hearing none, we will  
12 stand adjourned.

13 (Whereupon, the proceedings were concluded at 10:25  
14 a.m.)

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STATE OF SOUTH DAKOTA     )  
  )  ss.  
COUNTY OF HUGHES         )

I, Carla A. Bachand, RMR, CRR, Freelance Court Reporter for the State of South Dakota, residing in Pierre, South Dakota, do hereby certify:

That I was duly authorized to and did report the testimony and evidence in the above-entitled cause;

I further certify that the foregoing pages of this transcript represents a true and accurate transcription of my stenotype notes.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 2nd day of January 2007.

Carla A. Bachand

Carla A. Bachand, RMR, CRR  
Freelance Court Reporter  
Notary Public, State of South Dakota  
Residing in Pierre, South Dakota.

My commission expires: June 10, 2012.