

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Black Hills            ) Application No. NG-0007.6/  
Energy, Omaha, seeking to            ) PI-151  
amend the Black Hills Energy        )  
Tariff with the Third Revised        ) ORDER REMOVING TARIFF  
Tariff Sheet Index No. 8, to        ) SUSPENSION AND CLOSING DOCKET  
provide for an Annual Retail        )  
Service Credit, pursuant to        )  
*Neb. Rev. Stat. sec. 66-1808.*        ) Entered: October 20, 2009

BY THE COMMISSION:

O P I N I O N     A N D     F I N D I N G S

On May 29, 2009, Black Hills/Nebraska Gas Utility Company LLC, d/b/a Black Hills Energy ("Black Hills") filed a Third Revised Tariff Sheet Index No. 8, proposing to revise Black Hills Energy Tariff, pursuant to *Neb. Rev. Stat. § 66-1808*. The proposed revised tariff sheets, Index No. 8 Purchased Gas Cost Adjustment ("PGA"), seek to add provisions providing for an Annual Retail Service Credit. In its May 29, 2009 filing, Black Hills stated the proposed service credit will be created by providing non-regulated retail services using regulated peak capacity. The revised tariff pages were set to become effective on July 1, 2009.

On June 19, 2009, Roger P. Cox, the Nebraska Public Advocate, ("PA") filed a Petition for Formal Intervention and Request to Suspend Operation of Proposed Tariff Changes. The PA stated that the proposed tariff changes could potentially impact jurisdictional ratepayers. The concerns expressed by the PA included, but were not limited to, the prudence of Black Hills' maintenance of capacity for jurisdictional customers and cost allocation between the jurisdictional and non-jurisdictional activities of Black Hills under the proposed system.

On June 23, 2009, the Nebraska Public Service Commission ("Commission") opened the above-captioned proceeding to review the proposed tariff revisions and suspended the tariff provisions filed by Black Hills until further order of the Commission. A planning conference to discuss the procedures and discovery matters in the above-captioned docket was held on August 19, 2009. On August 21, 2009, the Hearing Officer issued a Planning Conference Order memorializing the procedural agreements reached at the Planning Conference and setting a hearing for October 20, 2009.

On August 24, 2009, Constellation New Energy ("Constellation") filed a letter seeking Formal Intervention. On August 31, 2009, the Hearing Officer issued an order denying Constellation's request for Formal Intervention as untimely and granting Constellation status as an Informal Intervenor. On August 27, 2009, Seminole Energy Services, LLC ("Seminole") filed a letter seeking Informal Intervention status. An order issued on August 31, 2009, granted Seminole Informal Intervention status.

On September 30, 2009, Black Hills and the PA entered into a Joint Stipulations regarding the concerns expressed by the PA in the above-captioned matter. The Joint Stipulation was filed by the parties with the Commission on October 13, 2009. Black Hills and the PA informed the Commission that the issues and concerns of the PA in this matter have been addressed to the reasonable satisfaction of the PA. The Joint Stipulation further outlined the agreement between the PA and Black Hills. Finally, both Black Hills and PA request that the suspension of the tariff provisions at issue in this proceeding be removed and the Commission allow the tariff to go into effect commencing November 1, 2009.

After careful review of the tariff provisions at issue in this proceeding and the provisions of the Joint Stipulation filed by Black Hills and the PA, the Commission finds the suspension of the Black Hills Retail Services Tariff shall be removed and the Tariff shall be released.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the suspension of the proposed revised tariff provisions regarding an Annual Retail Service Credit filed by Black Hills/Nebraska Gas Utility Company LLC, d/b/a Black Hills Energy on May 29, 2009, be, and is hereby, lifted.

IT IS FURTHER ORDERED that the Third Revised Tariff Sheet Index No. 8 provisions filed by Black Hills/Nebraska Gas Utility Company LLC, d/b/a Black Hills Energy on May 29, 2009, shall become effective November 1, 2009.

IT IS FURTHER ORDERED that the hearing scheduled in the above-captioned proceeding for October 20, 2009, be, and it is hereby, cancelled.

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IT IS FURTHER ORDERED that the above-captioned investigation be, and it is hereby, closed.

MADE AND ENTERED at Lincoln, Nebraska, this 20<sup>th</sup> day of October, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Gerald L. Vey*

*Lawrence*  
Chairman

*Tim Schram*

//s// Frank E. Landis

ATTEST

*Michelle*  
Executive Director