

## BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF )  
BLACK HILLS POWER, INC., FOR A ) DOCKET NO. 20002-91-ER-14  
GENERAL RATE INCREASE OF \$2,782,883 ) (RECORD NO. 13788)  
PER ANNUM IN ITS RETAIL ELECTRIC )  
SERVICE RATES )

### APPEARANCES

For the Applicant, Black Hills Power, Inc. (BHP or the Company):  
LEE A. MAGNUSON, Lindquist & Vennum, LLP, Counsel, Sioux Falls, South Dakota,  
AMY K. KOENIG, Corporate Counsel, Rapid City, South Dakota,  
JANE M. FRANCE, Sundahl, Powers, Kapp and Martin, LLC, local Counsel.

For the Office of Consumer Advocate (OCA):  
IVAN H. WILLIAMS, Counsel, Cheyenne, Wyoming.

### HEARD BEFORE

Chairman ALAN B. MINIER  
Deputy Chairman WILLIAM F. RUSSELL  
Commissioner KARA BRIGHTON

JOHN S. BURBRIDGE, Assistant Secretary,  
Presiding pursuant to a *Special Order* of the Commission

## FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

(Issued November 13, 2014)

### Introduction

1. This matter is before the Wyoming Public Service Commission (Commission) upon BHP's application for a general rate increase of \$2,782,883 per annum in its retail electric service rates. Also before the Commission is an *Amended Stipulation and Agreement (Stipulation)* signed by BHP and the OCA (the Parties).

2. BHP is a public utility as defined by Wyo. Stat. § 37-1-101(a)(vi)(C), providing retail electric public utility service under certificates of public convenience and necessity issued by the Commission. BHP is subject to the Commission's jurisdiction pursuant to Wyo. Stat. § 37-2-112. BHP is a subsidiary of Black Hills Corporation that serves approximately 2,700 electric customers in Northeast Wyoming.

## Summary of Decision

3. The Commission approved BHP's application, as amended by the *Stipulation*, for a general rate increase in the amount of \$2,207,892. The Company is directed to file appropriate tariffs.

## Course of Proceedings

4. On January 17, 2014, the Company filed its application (Ex. 1) proposed revised Tariff Sheets (Ex. 2) and the prefiled direct testimony of 13 witnesses: Vance Crocker, Vice President of Electric Operations for BHP (Ex. 6); Kyle D. White, Vice President of Regulatory Affairs for Black Hills Service Company, a wholly-owned subsidiary of Black Hills Corporation (BHC) (Ex. 7); Mark Lux, Vice President and General Manager of Regulated and Non-Regulated Generation for Black Hills Service Company (Ex. 8); Kent J. Kopetzky, Senior Manager of Gas Supply Service for Black Hills Utility Holdings, Inc. (BHUH), a wholly-owned subsidiary of BHC) (Ex. 9); David A. (Andy) Butcher, Director of Generation Dispatch and Power Marketing for BHP (Ex. 10); Christopher J. Kilpatrick, Director of Rates for BHUH (Ex. 11); Jon Thurber, Manager of Rates for BHUH (Ex. 12); Charles R. Gray, Manager of Regulatory Affairs for BHUH (Ex. 13); Terry Perkins, Director of Customer Account Services for BHUH (Ex. 14); John J. Spanos, Senior Vice President, Gannett Fleming, Inc. (Ex. 15); Laura A. Patterson, Director of Compensation, Benefits and Human Resources Information Systems for Black Hills Service Company (Ex. 16); Brian G. Iverson, Vice President and Treasurer of BHC and its subsidiaries (Ex. 17); and, Adrien M. McKenzie, Consultant (Ex. 18).

5. On January 23, 2014, the Commission issued a *Suspension Order* suspending the application for the purpose of investigation for the initial six-month period provided in subsection (c) of Wyo. Stat. § 37-3-106. (Ex. 100).

6. Also on January 23, 2014, the Commission issued a *Notice of Application* setting a deadline of February 21, 2014, for interested persons to file a statement, intervention petition, protest, or request for a public hearing. A public notice was published in newspapers in BHP's service territory. (Ex. 101). As a result of the *Notice of Application*, the Commission received numerous public comments generally opposing the proposed rate increase. (Ex. 108).

7. Additionally on January 23, 2014, BHP filed its *Motion for Admission Pro Hac Vice* of Douglas J. Law. On February 12, 2014, the Commission issued an order granting BHP's motion. (Ex. 104).

8. On January 29, 2014, the OCA filed its *Notice of Intervention* pursuant to Wyo. Stat. § 37-2-402(a) (Ex. 102). The OCA is an independent division of the Commission that represents the interests of Wyoming citizens and all classes of utility customers in matters involving public utilities. Wyo. Stat. § 37-2-401.

9. On February 5, 2014, BHP filed its *Motion for Admission Pro Hac Vice* of Lee A. Magnuson. On February 12, 2014, the Commission issued an order granting BHP's motion. (Ex. 105).
10. On February 11, 2014, BHP filed a *Motion for Admission Pro Hac Vice* of Amy K. Koenig and a *Motion for Admission Pro Hac Vice* of Todd L. Brink. On February 19, 2014, the Commission issued orders granting BHP's motions. (Exs. 106 and 107).
11. On February 12, 2014, the Commission issued a *Special Order Authorizing One Commissioner and/or Presiding Officer to Conduct Public Hearing*. (Ex. 103).
12. On February 26, 2014, the Commission issued a letter to commenters explaining the procedure to intervene. (Ex. 108). No commenter petitioned to intervene.
13. On March 13, 2014, the Commission issued a *Notice Setting Scheduling Conference* for March 19, 2014. (Ex. 109).
14. On March 20, 2014, the Commission issued a *Scheduling Order* establishing the procedural schedule and setting a public hearing for August 20, 2014. (Ex. 110).
15. On April 25, 2014, the Commission issued a *Notice and Order Setting Public Comment Hearing* for July 9, 2014, in Upton, Wyoming. A public notice was published in newspapers in BHP's service territory. (Ex. 111).
16. On June 25, 2014, BHP filed an *Unopposed Motion to Extend Deadlines to File Rebuttal, Cross-Answer and Surrebuttal Testimony*. (Ex. 112). On July 10, 2014, the Commission issued an order granting BHP's motion (Ex. 113) and an *Amended Scheduling Order*. (Ex. 114).
17. On July 9, 2014, the Commission held a public comment hearing in Upton, Wyoming. Present for the Commission were: Commissioner Brighton, Deputy Chairman Russell, Chairman Minier (presiding) and the following Commission Staff: Chris Petrie, John S. Burbridge, Lori Brand, Marci Norby, Art Schmidt and Perry McCollom. BHP was represented by Vance Crocker and Kyle White. OCA was represented by Ivan Williams. (Tr., Pub. Cmt. Hr'g., pp. 1, 6, 15, and 21).
18. Commenting at the public comment hearing were: Ken Pollat, Mark Mitchell Margery Barker, Kelly Wood, David Upton, Lucy McKenzie, Connie Montgomery, Rona Barker, Woody Gaughenbaugh, Martin Lindstrom, Taunya Offdenkamp, Sam Haptonstall, Odette Lambert and Julie Abbott. (Tr., Pub. Cmt. Hr'g., pp. 2-3).
19. On July 17, 2014, BHP filed a *Second Unopposed Motion to Extend Deadlines to File Rebuttal, Cross-Answer and Surrebuttal Testimony*. (Ex. 116). On August 7, 2014, the Commission issued an order granting BHP's motion. (Ex. 117).

20. On July 25, 2014, the Commission issued a *Notice and Order Setting Public Hearing* for August 20, 2014. A public notice was published in newspapers in BHP's service territory. (Ex. 115).

21. On July 28, 2014, BHP and the OCA filed the *Stipulation* (Ex. A).

22. On July 29, 2014, the OCA filed the prefiled direct testimony of two witnesses: Anthony J. Ornelas, Rate Analyst (Ex. 201); and Denise Kay Parrish, Deputy Administrator (Ex. 202).

23. On August 6, 2014, BHP and the OCA filed an amendment to the *Stipulation* (Ex. A-1), and the *Stipulation and Agreement Testimony* of Christopher J. Kilpatrick (Ex. I), Kyle D. White (Ex. J), and Denise Kay Parrish (Ex. K).

24. The public hearing was held on August 20, 2014, in Cheyenne, Wyoming. BHP and the OCA offered testimony and exhibits in support of the *Stipulation*. At the conclusion of the hearing, the Commission held public deliberations resulting in a unanimous decision approving the *Stipulation*.

### **Issue**

25. Does the *Stipulation* serve the public interest and is it an appropriate means of disposing of this matter pursuant to Commission Rule 119 and Wyo. Stat. § 16-3-107(n)?

### **Findings of Fact**

#### **Background:**

26. On January 17, 2014, BHP filed an application for authority to increase its electric rates in the amount of \$2,782,883. (Ex. 1). The request was due to future expected capital additions, the decommissioning of Neil Simpson I, Osage and Ben French coal-fired generation plants, and costs of complying with federal regulations. (Tr., p. 20; Ex. 1, p. 7). Pursuant to the *Stipulation*, the agreed revenue requirement was adjusted to \$2,207,892 and the rate of return was set at 8.13%. (Ex. A1).

#### **Rate Base:**

27. BHP calculated its rate base on the value of its fixed assets as of June 30, 2013, with additional rate base added through the effective date of this case, which is October 1, 2014. The Company then used October 1, 2014, through September 30, 2015, for pro forma adjustments. (Ex. 12, pp. 5-6).

28. BHP's original application proposed a total rate base of \$528,661,811 plus a *pro forma* adjustment of \$126,994,617, resulting in a total adjusted rate base of \$655,656,428. (Exs. 202.1 and 4, Statement M). Of those amounts, BHP's Wyoming jurisdictional allocation of rate base is \$47,405,042. (Ex. 4, Sch. N, p. 1).

29. The OCA's proposed rate base adjustments are as follows:

- Updating the CPGS construction costs and its materials and supplies inventory balance;
- Reflecting the Cheyenne Light ownership of the 12" pipeline of the CPGS with Black Hills paying a fee for the use of that pipeline;
- Modifying the calculation used to compute cash working capital; and
- Adjusting Accumulated Depreciation and Accumulated Deferred Income Taxes consistent with changes to plant cost estimates. (Exs. 202.2; A, pp. 5-7 and K, p. 4).

30. In the *Stipulation*, the total rate base for BHP is \$649,289,139. (Ex. D-R, Statement M). Wyoming's allocated rate base is \$46,806,443. (Exs. C-R and D-R, Statement N, p. 1). Ultimately, the Parties agreed to an annual revenue increase of \$2,207,892, reduced from \$2,782,883 originally requested by the Company. (Tr., p. 24; Exs. A, p. 5 and A-1).

### **New Plant – Cheyenne Prairie Generating Station (CPGS):**

31. The CPGS is a 132 MW natural gas-fired generating power plant. It includes: a simple cycle (SC) combustion turbine generator (net 37 MW), a combined cycle (CC) generator (net 95 MW), a natural gas supply pipeline, a transmission line, ancillary equipment, land and buildings, and a substation. (Ex. 8, pp. 2-4). The CPGS was scheduled to be placed into service in October 2014. (Tr., p. 20; Exs. 6, p. 9 and 8, p. 9).

32. The SC combustion turbine will be owned entirely by Cheyenne Light and the CC will be jointly owned by BHP (58%) and Cheyenne Light (42%). (Exs. 7, p. 10 and 8, p. 3). The CPGS calculated depreciation accrual rates for the CC and SC are based on the average service life procedure and the remaining life method. (Ex. 15, pp. 4-5 and 13). BHP stated the rates for each account are based on the most appropriate interim survivor curve and net salvage percent for other production plants and a life span. (Ex. 15, p. 13). According to the Company, the life span for the CC is 35 years. (Ex. 15, p. 13).

33. In the *Stipulation*, the Parties agreed that the life span of CPGS CC would be 40 years rather than the 35 years originally proposed by the Company. (Tr., pp. 27-28; Exs. A, p. 6; I, p. 10 and K, p. 6). The resulting annual depreciation rate decreased from 3.29% to 2.98%, causing a \$21,678 reduction to BHP's revenue requirement. (Ex. A, p. 5-6).

34. The total rate base of CPGS is \$220.16 million. BHP was allocated \$92.92 million in the original application. (Ex. 118, p. 3.1.1). The *Stipulation* allocates CPGS total costs of \$87,820,961 to BHP. (Tr., p. 32; Ex. D-R, Sch. D-3).

### **Cost of Capital:**

35. Pursuant to the *Stipulation*, the rate-of-return on rate base is 8.13% (reduced from 8.48% in the original application) with an average cost of debt of 6.10%, which yields a Wyoming

annual revenue requirement of \$2,207,892. BHP's original application sought an increase in annual revenue of \$2,782,955. (Exs. 1, p. 7; A-1 and I, p. 13).

### **Generation Overhaul Expense:**

36. BHP reduced generation plant overhaul expense to account for the retirement of its Ben French, Neil Simpson I and Osage facilities. (Ex. 4, Statements D, p. 2 and E, p. 2 and Sch. F-2, M-2, J-1 and H-17). The Company removed the facilities from Plant-in-Service and made corresponding adjustments for the reversal of generation plant overhaul expenses to reflect the account balance that will not be used due to the early retirement of the facilities. (*Id.*). BHP proposes to refund the resulting saved amounts to customers over a seven year period. (Ex. 4, Sch. H-17).

37. OCA proposed two adjustments to the generation overhaul expense reduction proposed by the Company. (Ex. 202, p. 22). The first adjustment uses a three year return to customers rather than a seven year return as proposed by BHP, because the funds were collected over a three year period. (*Id.*) The second adjustment includes a reduction to rate base for the regulatory liability. (*Id.*) The OCA contends many regulatory assets have been included in the rate base and recommends this regulatory liability be used as a \$491,365 reduction to rate base. (Ex. 202.14). In the *Stipulation*, the generation overhaul expense was updated to be amortized over a three year period resulting in a \$15,747 reduction to the revenue requirement. (Ex. A, p. 6). In addition, generation overhaul expense was added as an offset to rate base consistent with past practices. (Ex. A, p. 5-6).

### **Gillette Energy Complex:**

38. BHP's application used the 2013 budget and included an increase in shared facilities O&M expense for the Gillette Energy Complex of \$189,887 per year (for a total expense amount of \$1.7 million per year) and an increase in shared facilities revenue for the Gillette Energy Complex of \$76,002 per year (for a total revenue amount of approximately \$2.0 million per year). (Ex. 4, Sch. H-10) (Ex. 12, pp. 19-20).

39. The *Stipulation* adjusts the original application to reflect the 2014 budget rather than the 2013 budget. (Ex. A, p. 6). For the Gillette Energy Complex, the *Stipulation* also includes an adjustment increasing expenses by \$604,318 per year (a total expense amount of approximately \$2.1 million per year). (Ex. D-R, Sch. H-10, lines 13 and 15) and a revenue adjustment of \$860,467 per year (a total revenue amount of approximately \$2.8 million per year). (Ex. D-R, Sch. H-10, lines 21 and 23).

### **Advertising Expense:**

40. BHP originally requested removal of un-allowed advertising expenses of \$115,221 in its rate base. (Ex. 4, Sch H-6). In the *Stipulation*, the parties agreed to additional un-allowed advertising expenses for a new total of \$184,804. (Ex. D-R, Sch. H-6). Additional advertising expenses of \$69,593 (total company) were removed, resulting in a \$5,082 reduction in Wyoming's rate base. (Ex. A, p. 5 and 149). Accordingly, the *Stipulation* includes a corresponding revenue requirement reduction.

**Rate Case Expenses:**

41. The Company’s original application requested \$340,000 for its rate case expenses. (Ex. 4, Sch. H-5). The OCA recommended a reduction of \$199,369 reflecting updated actual and forecasted costs reducing the total budget to \$140,631. (Exs. 202, pp. 24-25 and 202.17). In the *Stipulation*, the OCA’s recommendation was adopted by the Parties. (Ex. D-R, Sch. H-5).

**Compensation & Benefits:**

42. The actual wage and salaries expense is approximately \$10 million (total Company) for the test year ending June 2013. (Ex. 4, Sch. H-1). The OCA proposed to adjust the payroll annualization to reflect wage increases for the rate effective period ending September 2015 rather than December 2015 as the Company calculated. (Exs. 202, p. 18 and 202.10). The proposed adjustment is a \$136,752 decrease for a total payroll expense of \$9,869,768 (reduced from \$10,006,518). (Exs. 4, Sch. H-1 and D-R, Sch. H-1). In the *Stipulation*, an adjustment was made to annualize the payroll through September 2015, which reduced the revenue requirement by \$12,428. (Exs. A, p. 7 and K, p. 5). (Ex. A, p. 5).

**Rate Change Impact – Black Hills Power:**

43. The Table below illustrates the New Monthly Service and Facilities Charge compared to the current charge. (“Customer Charge”). (Ex. A, p. 4).

A Summary of the stipulated monthly Service and Facility Charges

Class of Service	Current Monthly Service and Facility Charge	New Monthly Service and Facility Charge
Residential	\$14.00	\$15.50
Small General Service	\$22.00	\$28.00
General Service Total Electric	\$25.00	\$28.00

44. While the table illustrates only the Customer Charge, it does not illustrate the magnitude of the rate design impact on a customer in each class of service. The Customer Charge is a small portion of the customer’s monthly charges. The *Stipulation* states, “The revenue increase agreed upon through this *Stipulation* will impact customers differently depending upon the customer’s actual consumption.” (Ex. A, p. 4). However, the anticipated impact on customers using different usage levels within a class is set forth in BHP’s “Wyoming Electric Rate Book.” (Ex. B-R).

45. The following Table provides a summary of the changes in rates comparing the rates originally requested by BHP with the rates agreed to in the *Stipulation*. (Exs. A, p. 4 and B-R).

Black Hills Power Comparison Tariff Changes Proposed and Stipulated			Proposed Change		Stipulate Change		
	A Existing Rates	B Proposed Rates	C Stipulated Rates-R	D B-A	E % Change	F C-A	G % Change
<b>Residential Service</b>							
Customer Charge	\$ 14.00	\$ 17.00	\$ 15.50	\$ 3.00	21%	\$ 1.50	11%
Energy Charge per kWh	\$ 0.0830	\$ 0.1105	\$ 0.1082	\$ 0.0275	33%	\$0.0252	30%
<b>Total Electric Residential Service</b>							
Customer Charge	\$ 16.50	\$ 20.00	\$ 15.50	\$ 3.50	21%	\$ (1.00)	-6%
Energy Charge per kWh	\$ 0.0805	\$ 0.1072	\$ 0.1072	\$ 0.0267	33%	\$0.0267	33%
<b>Residential Demand Service</b>							
Customer Charge	\$ 16.50	\$ 20.00	\$ 15.50	\$ 3.50	21%	\$ (1.00)	-6%
Energy Charge per kWh	\$ 0.04500	\$ 0.06430	\$ 0.06430	\$ 0.0193	43%	\$0.0193	43%
Demand Charge per kWh	\$ 6.75	\$ 8.32	\$ 8.25	\$ 1.57	23%	\$ 1.50	22%
<b>General Service</b>							
Customer Charge	\$ 22.00	\$ 26.00	\$ 28.00	\$ 4.00	18%	\$ 6.00	27%
Capacity Charge over 5KW	\$ 5.50	\$ 7.65	\$ 7.40	\$ 2.15	39%	\$ 1.90	35%
Energy Charge							
1st 3,000 kWh	\$ 0.0820	\$ 0.1004	\$ 0.0974	\$ 0.0184	22%	\$0.0154	19%
Additional	\$ 0.0775	\$ 0.0964	\$ 0.0934	\$ 0.0189	24%	\$0.0159	21%
<b>General Service Total Electric</b>							
Customer Charge	\$ 25.00	\$ 29.50	\$ 28.00	\$ 4.50	18%	\$ 3.00	12%
Capacity Charge Over 5kW	\$ 5.25	\$ 7.34	\$ 7.10	\$ 2.09	40%	\$ 1.85	35%
Energy Charge per kWh 1st 6,000	\$ 0.0700	\$ 0.0860	\$ 0.0810	\$ 0.0160	23%	\$0.0110	16%
Demand Charge per kWh over	\$ 0.0525	\$ 0.0660	\$ 0.0615	\$ 0.0135	26%	\$0.0090	17%
<b>General Service Large</b>							
Capacity Charge							
1st 125 KVA	\$ 1,500.00	\$ 1,750.00	\$ 1,700.00	\$ 250.00	17%	\$200.00	13%
Per KVA Additional	\$ 8.75	\$ 12.00	\$ 12.00	\$ 3.25	37%	\$ 3.25	37%
Energy Charge							
1st 50,000 kWh	\$ 0.0610	\$ 0.0754	\$ 0.0734	\$ 0.0144	24%	\$0.0124	20%
Per kWh Additional	\$ 0.0560	\$ 0.0686	\$ 0.0669	\$ 0.0126	23%	\$0.0109	19%
<b>Industrial Contract Service</b>							
Capacity Charge	\$ 7.25	\$ 10.48	\$ 9.83	\$ 3.23	45%	\$ 2.58	36%
Firm Energy Charge	\$ 0.04900	\$ 0.06120	\$ 0.05740	\$ 0.0122	25%	\$0.0084	17%
1st 450 kWh per KVA	\$ 0.03960	\$ 0.05508	\$ 0.05160	\$ 0.0155	39%	\$0.0120	30%
Additional kWh							
<b>Street Lighting</b>							
Luminaries in Fixtures							
9,500 Lumen	\$ 10.75	\$ 12.28	\$ 12.10	\$ 1.53	14%	\$ 1.35	13%
27,500 Lumen	\$ 18.50	\$ 21.33	\$ 21.02	\$ 2.83	15%	\$ 2.52	14%
7,000 Lumen	\$ 10.75	\$ 12.28	\$ 12.10	\$ 1.53	14%	\$ 1.35	13%
20,000 Lumen	\$ 18.50	\$ 21.64	\$ 21.32	\$ 3.14	17%	\$ 2.82	15%
Flood Light Mercury							
27,500 Lumen HP	\$ 25.00	\$ 28.53	\$ 28.12	\$ 3.53	14%	\$ 3.12	12%
50,000 Lumen HP	\$ 45.50	\$ 51.70	\$ 50.95	\$ 6.20	14%	\$ 5.45	12%
20,000 Lumen MV	\$ 25.00	\$ 29.98	\$ 28.56	\$ 4.98	20%	\$ 3.56	14%
55,000 Lumen MV	\$ 45.50	\$ 53.45	\$ 52.67	\$ 7.95	17%	\$ 7.17	16%

### Town of Upton:

46. Based on the Public Comment Hearing held in the Town of Upton on July 9, 2014, BHP's requested rate increase will have a particularly significant impact on its customers generally characterized as seniors. Those customers will not necessarily take advantage of the Company's

energy efficiency programs because BHP's efforts at reaching out and sharing energy efficiency costs is not helpful to customers living on fixed incomes like Social Security. (Tr., Pub. Cmt. Hr'g., p. 1; Tr., pp. 41-44). As a result, a proactive program providing BHP's customers living on low fixed incomes with assistance implementing energy efficiency measures is necessary, as agreed to by the Company. (Tr., pp. 41-46).

### **Principles of Law**

47. Wyo. Stat. § 37-3-101 states:

All rates shall be just and reasonable, and all unjust and unreasonable rates are prohibited. A rate shall not be considered unjust or unreasonable on the basis that it is innovative in form or in substance, that it takes into consideration competitive marketplace elements or that it provides for incentives to a public utility. \* \* \* The commission may determine that rates for the same service may vary depending on cost, the competitive marketplace, the need for universally available and affordable service, the need for contribution to the joint and common costs of the public utility, volume and other discounts, and other reasonable business practices. \* \* \*

48. The Commission has broad powers to inquire into the facts surrounding the determination of rates. They include Wyo. Stat. § 37-2-119, which articulates the "used and useful" test and allows wide latitude in the Commission's investigation of rate-related matters. It states, in part:

In conducting any investigation pursuant to the provisions of this act the commission may investigate, consider and determine such matters as the cost or value, or both, of the property and business of any public utility, used and useful for the convenience of the public, and all matters affecting or influencing such cost or value, the operating statistics for any public utility both as to revenues and expenses and as to the physical features of operation . . . .

49. Wyo. Stat. § 37-2-120 requires the Commission to afford due process in its cases, stating, in part:

No order, however, shall be made by the commission which requires the change of any rate or service, facility or service regulation except as otherwise specifically provided, unless or until all parties are afforded an opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act.

50. Wyo. Stat. § 37-2-121 gives the Commission latitude to determine the actual rates to be charged by a utility, including consideration of innovative rate making, stating, in part:

If upon hearing and investigation, any rate shall be found by the commission to be inadequate or unremunerative, or to be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential or otherwise in any respect in violation of any provision of this act, the commission. . . may fix and order substituted therefor a rate as it shall determine to be

just and reasonable, and in compliance with the provisions of this act. . . . Any public utility may apply to the commission for its consent to use innovative, incentive or nontraditional rate making methods. In conducting any investigation and holding any hearing in response thereto, the commission may consider and approve proposals which include any rate, service regulation, rate setting concept, economic development rate, service concept, nondiscriminatory revenue sharing or profit-sharing form of regulation and policy, including policies for the encouragement of the development of public utility infrastructure, services, facilities or plant within the state, which can be shown by substantial evidence to support and be consistent with the public interest.

51. Wyo. Stat. § 37-2-122(a) reinforces the Commission's ability to exercise its sound informed discretion in rate making cases. It states:

In determining what are just and reasonable rates the commission may take into consideration availability or reliability of service, depreciation of plant, technological obsolescence of equipment, expense of operation, physical and other values of the plant, system, business and properties of the public utility whose rates are under consideration.

52. Wyo. Stat. § 37-2-122(b) gives similar necessary latitude to the Commission regarding utility services, stating:

If, upon hearing and investigation, any service or service regulation of any public utility shall be found by the commission to be unjustly discriminatory or unduly preferential, or any service or facility shall be found to be inadequate or unsafe, or any service regulation shall be found to be unjust or unreasonable, or any service, facility or service regulation shall be found otherwise in any respect to be in violation of any provisions of this act, the commission may prescribe and order substituted therefor such service, facility or service regulation, as it shall determine to be adequate and safe, or just and reasonable, as the case may be and otherwise in compliance with the provisions of this act, including any provisions concerning the availability or reliability of service. It shall be the duty of the public utility to comply with and conform to such determination and order of the commission.

53. The Wyoming Administrative Procedure Act at Wyo. Stat. § 16-3-107 sets parameters for due process in Commission cases, including the giving of reasonable notice. In accord are Wyo. Stat. §§ 37-2-201, 37-2-202, and 37-3-106. *See also*, Sections 106 and 115 of the Commission's Rules.

54. The public interest must come first in Commission decisions; and, as the Wyoming Supreme Court has stated, the desires of the utility are secondary to it. *Mountain Fuel Supply Company v. Public Service Comm'n*, 662 P.2d 878 (Wyo. 1983). Construing Wyo. Stat. § 37-3-101, which requires rates to be reasonable, the Court in *Mountain Fuel, supra*, at 883, commented:

This court cannot usurp the legislative functions delegated to the PSC in setting appropriate rates, but will defer to the agency discretion so long as the results are fair, reasonable, uniform and not unduly discriminatory.

Later, 662 P.2d at 885, the Court in *Mountain Fuel* observed that:

We agree that if the end result complies with the ‘just and reasonable’ standard announced in the statute, the methodology used by the PSC is not a concern of this court, but is a matter encompassed within the prerogatives of the PSC.

In accord are *Great Western Sugar Co. v. Wyo. Public Service Comm’n and MDU*, 624 P.2d 1184 (Wyo. 1981); and *Union Tel Co. v. Public Service Comm’n*, 821 P.2d 550 (Wyo. 1991), wherein the Supreme Court stated, 821 P.2d at 563, that it “. . . has recognized that discretion is vested in the PSC in establishing rate-making methodology so long as the result reached is reasonable.” Read *in pari materia*, these statutes articulate the basic mechanism of the public interest standard which the Commission is to follow in its decisions.

55. The Commission may approve a stipulation or agreed upon settlement as a means of disposing of any matter coming before it at hearing pursuant to Commission Rule 119, and Wyo. Stat. § 16-3-107(n).

### **Conclusions of Law**

56. BHP is a public utility as defined in Wyo. Stat. § 37-1-101(a)(vi)(C), providing retail electric public utility service under certificates of public convenience and necessity issued by the Commission. BHP is subject to the Commission’s jurisdiction pursuant to Wyo. Stat. § 37-2-112.

57. The contested case hearing, including reasonable notice to all interested persons, was conducted pursuant to the Wyoming Administrative Procedure Act, Wyo. Stat. §§ 37-2-201 through 203, and applicable sections of the Commission’s rules.

58. “At any hearing . . . involving an increase in rates or charges sought by a public utility, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility.” Wyo. Stat. § 37-3-106(a). Where, as in the referenced statute, the evidentiary standard is not specifically stated, that burden can be met by the “preponderance of the evidence” standard customarily used in civil cases. *Willadsen v. Christopulos*, 1987 WY 5 at ¶13, 731 P.2d 1181, 1184 (Wyo. 1987).

59. When the parties to a contested case proceeding reach a settlement, the Commission holds a public hearing to examine the terms of the agreement, motivations of the parties, transparency of the process and to determine whether the settlement is in the public interest. In such proceedings, we seek to understand the terms of the settlement, and assure that it completely addresses the requirements of a general rate case, thereby assuring ourselves that the settlement includes all the necessary determinations of fact that may be required for subsequent enforcement proceedings, such as making a determination of whether a utility is earning more than we have authorized. We inquire into the motivations of the parties to assure that some aspect of the settlement has not, by inattention or design, done a disservice to all or a subset of the utility’s ratepayers. We conduct such other examination as the public interest may require.

60. The Commission strongly disfavors “black box” settlements which, because of their opacity, prevent the Commission from determining how the parties went about reaching their settlement. In such situations, the results are not documented in a way that establishes a useable context within which to view subsequent applications. This causes the Commission great difficulty in fulfilling its responsibility to determine that the public interest has been served. At the same time, transparency alone does not satisfy the public interest. The Commission can and does reject proposed settlements when it concludes they do not serve the public interest.<sup>1</sup> In the instant case, however, the Parties discussed in detail how the *Stipulation* resolves the issues.

61. Broadly speaking, the settlement discussions in this case followed a pattern familiar to us. The utility lays a factual baseline with its pre-filed testimony; the OCA as intervenors, defines or highlights issues that are the subject of contention with its responsive pre-filed testimony; and the utility narrows the issues further with its rebuttal testimony by accepting (or further explaining its opposition to) points raised by the intervenors.

62. Full pre-hearing disclosure by the parties, including such matters as calculating customer impacts of the agreed rate increases, materially aids us in gathering the requisite evidence and reaching a decision in the public interest. Here the Parties have made a commendable effort to document the details of their settlement and to explain the process by which the settlement was reached. We find all of the *Stipulation* testimony credible and persuasive.

63. The Commission finds that the Parties have supported the *Stipulation* including BHP’s request for a general rate increase of \$2,207,892 and a rate of return of 8.13%. Because the *Stipulation* is incorporated into this *Order*, the Commission will not restate every provision. However, those provisions not discussed in the findings of fact, *supra*, have been adequately identified, discussed by the Parties, and considered by the Commission.

64. The public comments received on July 9, 2014, in Upton, Wyoming were fully considered by the Commission in reaching its decision. As such, the Commission finds and recommends, and BHP has agreed, to implement a program to assist individuals in the Upton, Wyoming area living on low fixed incomes to participate in energy efficiency programs offered by the Company, including, but not limited to providing energy audits, insulation and high efficiency lighting to those customers. An appropriate response to this issue is for the Company to create and implement an outreach program addressing the lack of participation by low income customers and provide the Commission with periodic compliance filings outlining its efforts and results in that regard.

65. The Commission finds that BHP’s proposed rate increase, as modified by the Parties in the *Stipulation*, is in the public interest. The new rates will enable the Company to continue providing safe, adequate, reliable and reasonably priced electric public utility service as required by statute.

---

<sup>1</sup> See, e.g., *Montana Dakota Utilities Co.*, Docket No. 20004-81-ER-09, order of May 26, 2010.

66. The *Stipulation* serves the public interest and is an appropriate means of disposing this matter pursuant to Commission Rule 119 and Wyo. Stat. § 16-3-107(n). However, nothing in the *Stipulation* may be construed as a limitation on the Commission's jurisdiction in this or any other case.

### Order

67. Pursuant to the Commission's deliberations held on August 20, 2014, Black Hills Power Company, Inc., is authorized to increase its rates for its Wyoming customers consistent with the terms of this *Order* and the *Stipulation*, attached hereto and incorporated herein by reference as Appendix A. The approved increase is \$2,207,892 per annum, and rate of return of 8.13 percent, effective October 1, 2014.

68. The other terms and conditions set forth in the *Stipulation* are approved and incorporated herein.

69. Black Hills Power, Inc., shall implement and carry out an outreach program to assist low income customers to participate in the Company's energy efficiency programs. Black Hills Power, Inc. shall file compliance filings with the Commission on November 1 and May 1 annually, generally outlining the Company's outreach program, explaining the results of the program and providing participation figures as a result of the program.

70. Any revised tariffs or rate schedules not already approved by the Commission shall be filed with the Commission for approval, consistent with the terms of this *Order*, within two weeks of its issuance.

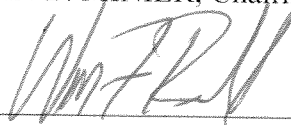
71. This *Order* is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on November 13, 2014.

PUBLIC SERVICE COMMISSION OF WYOMING



ALAN B. MINIER, Chairman



WILLIAM F. RUSSELL, Deputy Chairman



KARA BRIGHTON, Commissioner



Attest:



JOHN S. BURBRIDGE, Assistant Secretary

# **APPENDIX “A”**

Joint Exhibit A

Before the Public Service Commission  
of the State of Wyoming

In the Matter of the Application of  
Black Hills Power, Inc.

For an Increase in Electric Rates

## **STIPULATION AND AGREEMENT**

Docket No. 20002-91-ER-14

Record No. 13788

July 28, 2014

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**EXHIBITS FOR ELECTRIC SETTLEMENT**

<b><u>EXHIBITS</u></b>	<b><u>DESCRIPTION</u></b>
Joint Exhibit A	Stipulation and Agreement
Joint Exhibit B	Final Tariffs (clean and legislative)
Joint Exhibit C	Summary Revenue Requirement
Joint Exhibit D	Revenue Requirement Model (Statements A-R)
Joint Exhibit E	Class Cost of Service
Joint Exhibit F	Rate Design
Joint Exhibit G	Customer Impact Analysis
Joint Exhibit H	ECA Base Cost Calculation and Example

**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

IN THE MATTER OF THE APPLICATION )  
OF BLACK HILLS POWER, INC. FOR ) DOCKET NO. 20002-91-ER-14  
AUTHORITY TO INCREASE ITS ) (RECORD NO. 13788)  
ELECTRIC RATES )

---

**STIPULATION AND AGREEMENT**

---

The parties to this Stipulation and Agreement ("Stipulation") are Black Hills Power, Inc. ("Black Hills Power" or "Company") and the Wyoming Office of Consumer Advocate ("OCA"), (collectively referred to as the "Stipulating Parties").

The Stipulating Parties, by and through their respective undersigned counsel, agree to resolve all issues ("Identified Issues") contained in the rate case filed on January 17, 2014, by Black Hills Power with the Wyoming Public Service Commission ("Commission"), in Docket No. 20002-91-ER-14, Record No. 13788 ("Rate Case"). Resolution of the Identified Issues include compromises of the filed positions of the Stipulating Parties, and are specifically based upon the record in this case in its entirety, including the Direct Testimony and Exhibits filed by the OCA, along with the Direct Testimony and Exhibits filed by Black Hills Power. This Stipulation sets forth a detailed description of the Identified Issues and is a comprehensive resolution of all issues and matters, and which the Stipulating Parties believe is in the public interest.

NOW THEREFORE, the Stipulating Parties stipulate and agree to the following, and respectfully request that the Commission approve new electric rates for Black Hills Power as stipulated herein.

**I. PROCEDURAL HISTORY**

1. On January 17, 2014, Black Hills Power submitted an Application, together with pre-filed testimony and exhibits from thirteen witnesses, and revised tariff sheets, requesting authority to increase its retail electric utility service revenues from rates in Wyoming \$2,782,883 per annum. Through this Application, Black Hills Power requested that the Commission reset its Wyoming revenue requirement in this rate case using a test year adjusted for known and measurable changes. The test year period that Black Hills Power adopted in its Application consists of the 12 month time period beginning on July 1, 2012 and ending June 30, 2013, adjusted for the 12 month time period ending September 30, 2015. The proposed rates included revisions to the Energy Cost Adjustment ("ECA").

2. On January 23, 2014, the Commission suspended the tariff sheets submitted with Black Hills Power's Application.

3. On January 23, 2014, the Commission issued a Notice of Application in Docket No. 20002-91-ER-14. Requests for intervention were to be filed with the Commission on or before February 21, 2014. On January 29, 2014, pursuant to Wyoming Statute §37-2-402(a), the OCA filed a its Notice of Intervention.

4. A Scheduling Conference was held on March 20, 2014, resulting in a Scheduling Order dated March 20, 2014 that set a schedule for testimony, filings and hearings in this matter.

5. On May 20, 2014, the OCA timely filed testimony and exhibits of Anthony J. Ornelas supporting Black Hills Power's proposed return on equity of 9.75%.

The OCA also timely filed the testimony and exhibits of Denise Kay Parrish with a number of test year updates and comments as well as additional adjustments to the test year data. Overall, the OCA supported an increase in annual revenues of approximately \$2.4 million. The OCA also raised some concerns regarding Black Hills Power's proposed changes to its ECA.

6. Subsequently, the Stipulating Parties engaged in settlement discussions, which resulted in this Stipulation.

7. The Commission's hearing in this docket is scheduled to commence on August 20, 2014.

## II. THE STIPULATION

The Stipulating Parties agree to settlement of the Rate Case as follows:

1. **Tariffs.** The Stipulating Parties agree that rates for electric service shall be set forth in the tariffs attached as Joint Exhibit B. Included in the tariffs are updated avoided cost rates on tariff sheet no. 46 and updated wording on the Residential Demand Service Tariff (tariff sheet no. 8).

2. **Revenue Requirement.** The Stipulating Parties agree that the revenue requirement shall be as generally set forth in the answer testimony of the OCA, and as further modified during settlement discussions held by the Stipulating Parties. The Stipulating Parties agree to an operating revenue increase for Black Hills Power of \$2,251,814 above current operating revenues, as shown on Joint Exhibit C, attached hereto and incorporated by this reference. The Stipulating Parties agree that Joint Exhibit C, when viewed in the context of the

entire record as a whole, including filed testimony and exhibits along with this Stipulation, supports a just and reasonable base rate increase in electric revenues. For additional details on the overall revenue requirement, including the Statements and Schedules, please see Joint Exhibit D.

**3. Rate Design and Cost Allocation.** The Stipulating Parties agree to spread the revenue increase to the various classes of Black Hills Power customers as set forth on the attached Joint Exhibit E. The spread begins with the Class Cost of Service Study (COS), but also incorporates rate mitigation for the residential class. The Stipulating Parties agree to support the Black Hills Power residential rate mitigation as set forth in Joint Exhibit E. The Stipulating Parties agree the rates that are derived from this Stipulation are just, reasonable, and in the public interest. A schedule of rate calculations for the various classes is shown on Joint Exhibit F.

A summary of the monthly Service and Facility Charges is set forth below:

Class of Service	Current Monthly Service and Facility Charges	New Monthly Service and Facility Charges
Residential	\$14.00	\$15.50
Small General Service	\$22.00	\$28.00
General Service Total Electric	\$25.00	\$28.00

**4. Customer Impact.** The revenue increase agreed upon through this Stipulation will impact customers differently depending upon the customer's actual consumption. However, the anticipated impact on customers using different usage levels within a class is set forth in Joint Exhibit G.

### **III. REVENUE REQUIREMENT ADJUSTMENTS**

The Stipulating Parties agree to a revenue increase of \$2,251,814. Resolution of disputed revenue requirement components are summarized in the following table and further discussed below.

Line No.	Revenue Requirement Impact
Filed Revenue Requirement	\$ 2,782,883
A Adjustments to Revenue Requirement	
1 CPGS costs including Materials and Supplies	\$ (6,812)
2 Rate case costs	\$ (99,381)
3 CPGS Depreciation rate	\$ (21,678)
4 ADIT - Existing Plant	\$ 1,039
5 Cash working capital	\$ (22,599)
6 GEC Shared Facilities costs	\$ (35,119)
7 Generation overhaul expenses	\$ (15,747)
8 Reagent costs	\$ (152,873)
9 Generation Dispatch costs	\$ (31,895)
10 Wage increase	\$ (12,428)
11 Advertising expense	\$ (5,082)
12 12" Natural Gas Pipeline	\$ 32,610
13 Cost of Capital	\$ (161,104)
Adjusted Revenue Requirement	\$ 2,251,814

#### **A. Adjustments to Revenue Requirement**

1. As filed, the rate base for Cheyenne Prairie Generating Station (“CPGS”) and associated materials and supplies were estimated with the most accurate forecast available. Actual

and forecasted costs for the settlement amount were adjusted as of March 31, 2014, to settle on a final BHP – Wyoming CPGS plant cost of \$7,116,132. Accumulated depreciation was also adjusted to reflect updated plant balances.

2. Rate case expenses were updated based on actual and forecasted costs and deferred rate case costs were removed from rate base consistent with past practices.

3. For settlement purposes, the Stipulating Parties agree that the life span of CPGS Combined Cycle Unit shall be established at 40 years, rather than the 35 years requested by the Company. The resulting depreciation rate changes from 3.29% to 2.98%.

4. Accumulated Deferred Income Taxes were adjusted to reflect updated plant balances and revised depreciation rates.

5. Cash working capital was updated to remove depreciation expense from the calculations, correct certain lag calculations, and to reflect the other expense adjustments proposed in the Stipulation.

6. The Gillette Energy Complex (“GEC”) Shared Facilities revenue was updated to reflect the 2014 budget rather than the 2013 budget.

7. Generation plant overhaul expenses were added as an offset to rate base consistent with past practices. As well, the expenses were updated to be amortized over a three year period as compared to a seven year period, as filed.

8. The reagent cost was adjusted to reflect the October 2014 through September 2015 budget.

9. The generation dispatch cost was adjusted to reflect the October 2014 through September 2015 budget.

10. Adjustment was made to annualize the payroll through September 30, 2015

11. The Stipulation corrects the unallowed advertising expense adjustment.

12. With regard to the pipeline transport expense, the Stipulating Parties agreed that Cheyenne Light, Fuel and Power Gas will own 100% of the 12" natural gas transmission pipeline and will charge Cheyenne, Light Fuel and Power Electric and Black Hills Power, Inc. a revenue requirement based transport rate. This adjustment also includes the removal of the pipeline from rate base, the transport revenue and the fixed transport capacity charge from Southern Star gas transmission line.

13. The Stipulating Parties agree to support a capital structure of 53.32% equity and 46.68% debt, an authorized return on equity ("ROE") of 9.90%, and an average cost of debt of 6.31%. The average cost of debt includes an updated, reduced cost due to the recent debt issuance by the Company. The cost of capital components result in a rate of return ("ROR") of 8.23%.

#### **IV. ENERGY COST ADJUSTMENT**

**1.** The Stipulating Parties agree to a revision of the ECA as set forth in the tariffs and also attached as Joint Exhibit H, and is summarized as follows:

**A.** The modifications to the current ECA shall be effective for services rendered on and after October 1, 2014. The new ECA base cost amount shall be 0.02213/kWh, as set forth in Joint Exhibit H, column A.

**B.** The Stipulating Parties agreed to changes to the current ECA, which are generally summarized as follows:

1. Eliminate the Deadband
2. Include the Wholesale Sales Revenue
3. Incorporate Sharing
4. Change the Power Marketing Guarantee (\$2 to \$1.5 million)
5. Add reagents

C. The ECA to be paid by customers to Black Hills Power beginning on September 1, 2015, for costs incurred for the twelve month period June 1, 2014 through May 31, 2015, shall be the difference between the ECA base rate applicable to that twelve month period and the actual fuel and purchased power costs incurred during that twelve month period. For example, if the new rates proposed as a result of this Stipulation go into effect on October 1, 2014, the current ECA calculation will be used from May 31, 2014 through September 30, 2014. Effective October 1, 2014 through May 31, 2015, the new ECA calculation as defined in this Stipulation will be used and the total amount for these two calculations will then begin to be collected from customers on September 1, 2015.

D. The Company agrees that it will not object if OCA chooses to audit, at a mutually agreeable time, the ECA costs.

E. The proposed and stipulated ECA was created pursuant to the innovative rate making provisions of W.S. Section 37-2-121, and falls outside the requirements of Sections 249 and 250 of the Commission's rules insofar as it provides for the inclusion of costs and the sharing of risks not contemplated by the rules.

## V. PROCEDURAL MATTERS

1. **Effective Date of New Rates.** The Stipulating Parties agree that the new rates for electric service shall be effective for service rendered on and after October 1, 2014. The

Stipulating Parties agree to ask for a bench decision and agree to waive their right to file post hearing briefs.

## **VI. GENERAL TERMS AND CONDITIONS**

**1. Public Interest.** The Stipulating Parties stipulate and agree that this Stipulation is in the public interest and that in its entirety it is reasonable. The Stipulating Parties acknowledge that this Stipulation represents a compromise in the positions of the Stipulating Parties in this Docket and has been negotiated in good faith. This Stipulation is in the public interest and is the result of a negotiated settlement. The compromises and settlements set forth in this Stipulation are consistent with the public interest. The Stipulating Parties agree to present hearing testimony and evidence in support of this Stipulation to the extent discussed above or requested by the Commission and to acknowledge that their support and advocacy of the Stipulation is based upon the Stipulation as a whole, in its entirety, and not based upon individual components viewed in isolation. The Stipulating Parties acknowledge that their support and advocacy of the Stipulation may be compromised by material alterations to the Stipulation. The Stipulating Parties agree to support all elements of this Stipulation as being in the public interest in proceedings before the Commission, and to advocate in good faith that the Commission approve this Stipulation in its entirety.

**2. Settlement Negotiations.** The Stipulating Parties stipulate and agree that all negotiations relating to this Stipulation are privileged and confidential, and no Party shall be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation.

The Stipulating Parties stipulate and agree that this Stipulation represents a compromise in the positions of all Stipulating Parties. As such, the Stipulating Parties acknowledge their support and advocacy of the Stipulation is based upon the Stipulation as a whole, in entirety, and not based upon its individual components in isolation. In addition, evidence of conduct or statements made in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or any court.

**3. Settlement Effectiveness.** The Stipulating Parties stipulate and agree that except as expressly noted herein, the execution of this Stipulation shall not be deemed to constitute an acknowledgement of any party hereto of the validity or invalidity of any particular method, theory or principle of ratemaking or regulation, and no party shall be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding. The execution of the Stipulation shall not constitute the basis of estoppel or waiver in future proceedings by any party. Furthermore, no party hereafter shall be deemed to be bound by any position asserted by any party, and no finding of fact or conclusion of law other than those expressly stated herein shall be deemed to be implicit in this Stipulation.

**4. Hearing Witnesses and Exhibits.** The Stipulating Parties agree to the admission of all pre-filed testimony and exhibits filed in Docket No. 20002-91-ER-14. The Stipulating Parties waive cross examination of witnesses for any party who is a signatory to the Stipulation provided that the witnesses' hearing testimony is consistent with this Stipulation.

**5. Support For Settlement.** The Black Hills Power and the OCA shall file testimony in support of the Stipulation. Further, at the scheduled hearing in this matter, the Stipulating

Parties shall each provide at least one witness that will be available to explain the proposed Stipulation. In addition, the Stipulating Parties will have available each of their witnesses to answer any questions of the Commission or its staff regarding any of the filed testimony.

The Stipulating Parties acknowledge that this Stipulation represents a compromise in the positions of the Stipulating Parties in this Docket and has been negotiated as a packaged settlement. The Stipulating Parties agree to present hearing testimony and evidence in support of this Stipulation as requested by the Commission and to acknowledge that their support and advocacy of the Stipulation is based upon the Stipulation as a whole, in its entirety, and not based upon its individual components viewed in isolation. The Stipulating Parties acknowledge that their support and advocacy of the Stipulation may be compromised by alterations to the Stipulation. In the event the Commission rejects or materially alters the Stipulation, the Stipulating Parties agree they are no longer bound by its terms and are not deemed to have waived any of their respective procedural or due process rights under Wyoming law.

**6. Commission Approval.** If the Commission chooses to adopt and approve the Stipulation, this Stipulation resolves all disputed and undisputed matters relative to this proceeding. Any disputed matters shall be deemed resolved to the extent that the Stipulation is not compromised by alterations.


The issuance of an Order approving this Stipulation shall not be deemed to work as an estoppel upon the Stipulating Parties or the Commission, or otherwise establish or create any limitation on or precedent of the Commission in future proceedings.

This Stipulation is in the public interest and is the result of a negotiated settlement.

7. **Settlement Execution.** This Stipulation may be executed by electronic mail or facsimile in one or more counterparts and each counterpart shall have the same force and effect as an original document and as if all the Stipulating Parties had signed the same document. Any signature page of this Stipulation may be detached from any counterpart of this Stipulation without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of the Stipulation identical in form hereto but having attached to it one or more signature page(s).

DATED this 28<sup>th</sup> day of July 2014.

Black Hills Power, Inc.

By:   
Vance Crocker  
Vice President Operations  
Black Hills Power, Inc.  
625 Ninth Street  
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Wyoming Office of Consumer Advocate

By: \_\_\_\_\_  
Ivan Williams  
Senior Attorney  
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Cheyenne, WY 82002  
(307) 777-5748  
[Ivan.williams@wyo.gov](mailto:Ivan.williams@wyo.gov)

7. **Settlement Execution.** This Stipulation may be executed by electronic mail or facsimile in one or more counterparts and each counterpart shall have the same force and effect as an original document and as if all the Stipulating Parties had signed the same document. Any signature page of this Stipulation may be detached from any counterpart of this Stipulation without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of the Stipulation identical in form hereto but having attached to it one or more signature page(s).

DATED this \_\_\_\_ day of July 2014.

Black Hills Power, Inc.

Wyoming Office of Consumer Advocate

By: \_\_\_\_\_

Vance Crocker  
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Black Hills Power, Inc.  
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By: Ivan Williams

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**Kyle D. White**  
Vice President Regulatory Affairs  
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Joint Exhibit A-1  
Amendment

625 9<sup>th</sup> St.  
Rapid City, SD 57701  
P: 605.721.2313  
F: 605.721.2568

August 6, 2014

Mr. Ivan Williams  
Senior Counsel  
Wyoming Office of Consumer Advocate  
2515 Warren Avenue, Suite 304  
Cheyenne, Wyoming 82002

Dear Mr. Williams:

Pursuant to Ms. Parrish's request, Black Hills Power, Inc. ("Company") has agreed to amend the Stipulation and Agreement, filed on July 28, 2014, in Docket No. 20002-91-ER-14 (Record No. 13788), to reflect the actual debt issuance cost associated with the new bonds the Company will be issuing on or about October 1, 2014. This letter shall be considered an amendment ("Amendment") to the terms of the Stipulation and Agreement, and impacts Joint Exhibits B, C, D, E, F, and G. In particular, the revenue requirement is now \$2,207,892; the return on rate base is now 8.13 percent; and the weighted average cost of debt is now 6.10%. Enclosed with this correspondence are the revised exhibits that reflect this Amendment. The revised exhibits are labeled Joint Exhibits B-R, C-R, D-R, E-R, F-R, and G-R.

Please review the revised exhibits at your earliest convenience and let me know if there are any additional changes that the OCA believes are necessary. Please also let me know if you have any objection to filing Joint Exhibits B-R, C-R, D-R, E-R, F-R, and G-R with the Commission in Docket No. 20002-91-ER-14. Lastly, please let me know if you have any objection to replacement of the existing Joint Exhibits B, C, D, E, F, and G in the docket with the revised Joint Exhibits B-R, C-R, D-R, E-R, F-R, and G-R. If you are amenable to the content, filing, and replacement as proposed, please confirm that the OCA has no objection by signing below.

Ivan Williams  
Senior Counsel  
Wyoming Office of Consumer Advocate

A handwritten signature in cursive script that reads "Ivan Williams".

Upon receipt of the OCA's consent, the Company will file this executed letter Amendment and the revised Joint Exhibits with the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Kyle D. White".

Kyle D. White