

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC, d/b/a BLACK HILLS ENERGY (f/k/a AQUILA, INC., d/b/a AQUILA NETWORKS)</p>	<p>DOCKET NOS. RPU-08-3 TF-08-83</p>
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**ORDER APPROVING NEW SETTLEMENT AGREEMENT,
REJECTING PROPOSED TARIFFS, DIRECTING FILING OF
REVISED TARIFFS, AND FINAL DECISION AND ORDER**

(Issued June 3, 2009)

PROCEDURAL BACKGROUND

On May 7, 2009, the Utilities Board (Board) issued an order rejecting a non-unanimous settlement agreement (Revenue Settlement) filed by Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks) (Black Hills Energy), and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) that purported to settle all issues related to the revenue requirement in Docket No. RPU-08-3 and proposed a capital additions tracker (CAT) as a pilot project. The May 7, 2009, order also approved a settlement agreement (Constellation Settlement) between Black Hills Energy and Cornerstone Energy, LLC, d/b/a Constellation NewEnergy-Gas Division (n/k/a Constellation NewEnergy-Gas Division, LLC) (Constellation).

In the order, the Board stated that overall the agreements reached for the revenue issues in the Revenue Settlement between Black Hills Energy and Consumer Advocate were reasonable. The Board found that the proposal to adopt a CAT mechanism was not reasonable and since the settlement was presented as a whole, the rejection of the CAT required the rejection of the entire settlement. The Board set the revenue issues, other than those approved in the Constellation Settlement, for hearing on June 2, 2009.

On May 13, 2009, Black Hills Energy and Consumer Advocate filed a "Joint Motion and New Settlement Agreement" (New Settlement Agreement) for Board approval. On May 19, 2009, Black Hills Energy filed a request for waiver of certain requirements related to the non-unanimous New Settlement Agreement. On May 21, 2009, the Board issued an order canceling the hearing set for June 2, 2009, and granting the waiver request filed by Black Hills Energy.

The New Settlement Agreement states that Black Hills Energy and Consumer Advocate had reviewed the May 7, 2009, order and had resumed negotiations in an effort to resolve the concerns regarding the rejected earlier settlement. The New Settlement Agreement retains all of the elements of the rejected settlement except for the withdrawal of the CAT and an increase in customer charges to the levels currently collected in interim rates. The settlement states that the non-signatory parties have no objection to the Board's approval of the New Settlement Agreement.

The New Settlement Agreement states that Black Hills Energy will be authorized to institute a general natural gas revenue increase of \$10,391,132 to be effective on the date the Board approves tariffs implementing the New Settlement Agreement. The New Settlement Agreement states that Black Hills Energy's total Iowa jurisdictional revenue requirement will be \$190,928,077 and the revenue increase and total jurisdictional revenue requirement will be adjusted to reflect the actual amount of rate case expense in this case, amortized over a three-year period.

The New Settlement Agreement states that Black Hills Energy's Iowa jurisdictional rate base is \$87,577,563 and the overall rate of return for its rate base is 8.71 percent. The rate of return is based upon a return on equity of 10.1 percent.

The New Settlement Agreement states that a pro forma adjustment for "miscellaneous expenses" was included to address numerous issues and potential issues that could not be resolved on an issue-by-issue basis; however, there was agreement on a specific dollar amount to resolve all of these issues collectively.

The New Settlement Agreement includes a withdrawal of the CAT and an agreement that the Revenue Normalization Mechanism will not be approved or implemented in this docket. The New Settlement Agreement states that upon approval of the settlement agreement in its entirety by the Board, no refund will be due pursuant to the corporate undertaking filed as part of the interim rate increase implemented by Black Hills Energy.

The New Settlement Agreement provides that the monthly customer charges to be implemented are as follows:

General Service Residential Rate Code 001	\$15.60
General Service Commercial/Industrial Customers Rate Code 050	\$23.60
General Service Commercial/Industrial Rate Code 051	\$23.60

Board rule 199 IAC 7.18 provides that the Board cannot approve a settlement unless the Board finds that the proposed settlement agreement is reasonable in light of the whole record, consistent with law, and in the public interest.

REVENUE ISSUES

Revenue Requirement

The proposed revenue increase, Iowa rate base, rate of return, return on equity, and the agreement to adjust the revenue increase by rate case expense amortized over three years are the same as proposed in the Revenue Settlement found to be reasonable by the Board in the May 7, 2009, order. The Board finds that these items as presented in the New Settlement Agreement are a reasonable resolution of these issues.

Weather Normalization

The weather normalization adjustment contained in the New Settlement Agreement appears to be the same as found to be reasonable in the Revenue

Settlement addressed by the Board in the May 7, 2009, order. The Board finds the weather normalization adjustment in the New Settlement Agreement is reasonable.

Rate Design

The New Settlement Agreement proposes that monthly customer charges be the same as those currently being charged under temporary rates. The Board stated in the May 7, 2009, order addressing the Revenue Settlement that customer charges should reflect the class cost-of-service study filed by Black Hills Energy and the testimony about the decline in average customer usage. The Board stated that it might be more reasonable to recover the additional revenue requirement agreed to in the Revenue Settlement through customer charges rather than the increased volumetric charge or the CAT.

The customer charges agreed to in the New Settlement Agreement are consistent with the direction provided by the Board in the May 7, 2009, order. The volumetric charge under the New Settlement Agreement will be changed from the volumetric charge proposed in the Revenue Settlement due to the changes in the customer charges. The Board finds the agreed-to customer charges and volumetric charge are reasonable.

CAPITAL ADDITIONS TRACKER

The New Settlement Agreement states that the CAT is withdrawn. This is consistent with the Board's May 7, 2009, order.

BOARD DISCUSSION

The Board finds that the New Settlement Agreement is consistent with the direction and decision in the May 7, 2009, order and meets the requirement of Board rule 199 IAC 7.18 that the proposed settlement agreement is reasonable in light of the whole record, consistent with law, and in the public interest. The Board will approve the settlement agreement.

Since the Board is approving the settlement agreement, resulting in an increase in annual revenue less than the revenue increase proposed by Black Hills Energy in TF-08-83, the Board will reject TF-08-83 and direct Black Hills Energy to file compliance tariffs consistent with the New Settlement Agreement.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The "Joint Motion and New Settlement Agreement" filed on May 13, 2009, by Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks), and the Consumer Advocate Division of the Department of Justice is granted and approved.
2. The proposed tariff filed by Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks), on June 2, 2008, identified as TF-08-83, and made subject to investigation as part of this proceeding, is rejected as unjust, unreasonable, and unlawful.

3. On or before 20 days from the date of this order, Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (f/k/a Aquila, Inc., d/b/a Aquila Networks), shall file revised tariffs that produce total annual jurisdictional revenue, not to exceed \$190,928,077.

4. This order constitutes the final decision of the Utilities Board in Docket No. RPU-08-3.

UTILITIES BOARD

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 3rd day of June, 2009.