
IOWA UTILITIES BOARD
Energy Section

Docket No.: RPU-2010-0002, TF-2011-0024
Utility: Black Hills/Iowa Gas Utility
Company, LLC d/b/a Black Hills
Energy
File Date/Due Date: 1/11/11-2/10/11
Memo Date: 2/7/11

TO: The Board

FROM: Robert LaRocca (Team Leader)
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SUBJECT: Decision Memorandum Modified Settlement

I. Background

On June 8, 2010, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills or Black Hills Energy), filed with the Utilities Board (Board) proposed gas tariffs identified as TF-2010-0075 and TF-2010-0076. In TF-2010-0076 Black Hills Energy is proposing to increase Iowa gas rates to produce a permanent annual jurisdictional revenue increase of approximately \$4,684,141. In TF-2010-0075, Black Hills Energy filed proposed gas tariffs designed to produce annual revenue of approximately \$2,577,989 on a temporary basis. The temporary gas tariffs became effective on June 18, 2010, pursuant to Iowa Code § 476.6(10).

On July 7, 2010, the Board issued an order docketing the application filed by Black Hills Energy for a general increase in natural gas rates for Iowa customers. In the docketing order, the Board established a procedural schedule and scheduled a hearing for December 13, 2010. On August 20, 2010, Black Hills Energy, the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and Constellation New Energy-Gas Division, LLC (Constellation) (collectively Parties) filed a joint motion and unanimous settlement agreement (Initial Settlement) on all issues.

On September 16, 2010, the Board issued an order scheduling a hearing to allow the Board to ask questions about the Initial Settlement. In the order, the Board also requested additional information from Black Hills Energy. On September 29, 2010, Black Hills Energy filed the additional information requested in the September 16, 2010, order.

On September 23, 2010, Constellation filed a request to be excused from the settlement hearing. On September 29, 2010, the Board issued an order granting the request.

The hearing was held as scheduled on October 12, 2010. At the hearing, the Board directed Black Hills Energy to file certain late-filed exhibits. On October 18, 2010, the Board issued an order granting a motion to file a post-hearing brief. On October 26, 2010, Black Hills Energy filed late-filed exhibits as directed and filed a post-hearing brief. On November 23, 2010, the Board issued an order canceling the hearing set for December 13, 2010, and stated that it would hold a decision meeting to address the settlement.

The Board held a decision meeting on January 7, 2011. At the decision meeting the Board indicated that it considered the revenue requirement agreed to in the Initial Settlement of \$3.4 million to be reasonable. The Board indicated that the rate design and billing determinants appeared reasonable based upon the record. The Board stated that it did not consider the Investment Recovery Mechanism (IRM) agreed to by the Parties to be reasonable.

On January 11, 2011, the Parties filed a "Modified Joint Motion and Unanimous Settlement Agreement on All Issues" (Modified Settlement). The Modified Settlement recited the history of this docket, including the Board's decisions discussed at the decision meeting. On February 3, 2011, Black Hills Energy filed proposed tariffs that implement the Modified Settlement and include rate case expense from this proceeding, Docket No. TF-2011-0024. On February 4, 2011, Black Hills Energy filed revisions to the proposed tariffs in Docket No. TF-2011-0024 based upon discussion with Board staff.

II. Modified Settlement

The Modified Settlement proposes that Black Hills Energy be granted an increase in Iowa jurisdictional revenues of \$3,400,000. This amount would be adjusted upward to reflect the unamortized balance of prior rate case expenses and the actual amount of rate case expense for this proceeding. The total rate case expenses have been filed and amortized over a three-year period. Black Hills has filed proposed tariffs with the rate case expense included in Docket No. TF-2011-0024.

The Modified Settlement provides that customer charges will be set as follows:

General Service Residential Rate Code 001	\$18.25
General Service Commercial/Industrial Rate Codes 050/051	\$29.00
Small Volume	\$75.00
Large Volume	\$200.00

The Modified Settlement states that based upon the agreement to allow for an increase in revenues of \$3,400,000, no refund with interest shall be due to any of Black Hills Energy's customers pursuant to the corporate undertaking filed with the Board.

The Modified Settlement states that the IRM and moratorium have been removed from the proposed settlement. The Parties request that the tariffs implementing the Modified Settlement be approved no later than February 10, 2011.

III. Legal Standards

Iowa Code § 476.6(6)

If, after a hearing and decision on all issues presented for determination in the rate proceeding, the board finds the proposed rates, charges, schedules, or regulations of the utility to be unlawful, the board shall by order authorize and direct the utility to file new or changed rates, charges, schedules, or regulations which, when approved by the board and placed into effect, will satisfy the requirements of this chapter.

199 IAC 7.18

Settlements: Parties to a contested case may propose to settle all or some of the issues in the case. The board or presiding officer will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

IV. Return on Equity (ROE) (Cleveland)

The Modified Settlement is a black box settlement, the same as the Initial Settlement, and the ROE is not specified. There is no reference in the Modified Settlement to any other ROE. Black Hills was proposing a ROE of 11.25 percent in this case.

Given that there is no specified ROE, staff has no way of analyzing the reasonableness of the Modified Settlement based on this issue. At the decision meeting, the Board stated that the fact that no ROE was included in the Initial Settlement made a decision on the reasonableness of the IRM more uncertain.

Staff makes no recommendation on the ROE for the Modified Settlement. Staff believes the Board should indicate that it expects some reference to a ROE in future settlements.

V. Modified Settlement Rate Design (Pearce)

The Modified Settlement rate design appears reasonable; it is the same rate design proposed in the Initial Settlement that was considered by the Board at the decision meeting. The Modified Settlement specifies an overall \$3.4 million revenue increase (Article VI) and the following customer charge increases (Article VIII):

	<u>Pre-Case</u>	<u>Settlement</u>	<u>% Increase</u>
General Service Residential:	\$15.60	\$18.25	17.0 %
General Service Commercial/Industrial:	\$23.60	\$29.00	22.9 %
Small Volume	\$50.00	\$75.00	50.0 %
Large Volume	\$150.00	\$200.00	33.3 %

As discussed in the decision memo addressing the Initial Settlement, unless offset with reductions elsewhere, the customer charge increases would produce additional revenue that exceeds the overall \$3.4 million revenue increase.

In Article XI of the Modified Settlement, the Parties state that the supporting data for the tariff sheets, including billing determinants, were previously filed with the Board as Attachment F to the Responses to Additional Information Requests filed by Black Hills Energy on September 29, 2010, and Attachment F is incorporated into the Modified Settlement by reference. The Parties state that they consider the tariff sheets to be reasonable and request they be approved no later than February 10, 2011.

Attachment F filed September 29, 2010, includes Black Hills filed revised versions of witness Sullivan's Exhibits TJS-10 through TJS-13 based on the Initial Settlement agreement and which now support the Modified Settlement. The exhibits include all rates and billing determinants to be used in verifying Black Hills' \$3.4 million Settlement increase.¹ The revised exhibits apply the same test year billing determinants used in the original exhibits, and the following changes to Black Hills' per-therm volumetric rates (in addition to the increased customer charges and other rates) to produce an overall revenue increase of slightly less than \$3.4 million:

	<u>Pre-Case</u>	<u>Settlement</u>	<u>% Increase/ (Decrease)</u>
General Service Residential:	\$0.12782	\$0.11460	(10.3%)
General Service Commercial/Industrial:	\$0.12782	\$0.11460	(10.3%)
Small Volume	\$0.04200	\$0.05194	23.7 %
Large Volume	\$0.02418	\$0.02336	(3.4%)

At the Settlement hearing, Consumer Advocate witness Bodine confirmed that Black Hills' revised Exhibits TJS-10 through TJS-13 represent the Initial Settlement's resolution of all issues related to class cost of service, billing determinants, and final

¹ Entered into evidence as Exhibit 1, Schedule F at the Settlement hearing.

rates.² (Tr. 267-269).

Black Hills did not revise its class cost-of-service (CCS) study in revised Exhibits TJS-10 and TJS-11.³ The lack of a revised CCS is not unexpected, given that neither the Initial nor Modified Settlement specifies a revised revenue requirement. Nonetheless, the CCS study provides a basis for confirming the general reasonableness of the Modified Settlement customer charges. That is, assuming the entire \$1.3 million Settlement reduction to Black Hills' original proposed increase is proportionately subtracted from class customer costs in the CCS study (the maximum possible impact on customer costs); the Modified Settlement customer charges still would not exceed the adjusted class customer costs on an average per-customer basis.

Black Hills' filing of final Settlement rates in Docket No. TF-2011-0024 includes incremental increases to the Settlement per-therm volumetric rates designed to recover an additional \$306,513.65 for rate case expenses (i.e., for a total increase of \$3,706,513.65), pursuant to the Settlement. These incremental increases change the final Settlement volumetric rates as follows:

	<u>Pre-Case</u>	<u>Settlement & Rate Case Expense</u>	<u>Final % Increase/ (Decrease)</u>
General Service Residential:	\$0.12782	\$0.11635	(9.0%)
General Service Commercial/Industrial:	\$0.12782	\$0.11635	(9.0%)
Small Volume	\$0.04200	\$0.05237	24.7 %
Large Volume	\$0.02418	\$0.02364	(2.2%)

These final changes (in addition to the increased customer charges and other rates) are shown to produce an overall revenue increase of slightly less than \$3,706,460, (i.e., \$53.65 less than the \$3,706,513.65 authorized by the Settlement).

² The Initial billing determinants in the revised exhibits include Black Hills' weather normalization adjustment for the General Service class (see next issue below). Given that the Initial Settlement specifies a revenue increase without reference to test year revenues or a revenue requirement, and specifies reductions in the General Service volumetric rates, removal of Black Hills' weather normalization adjustment would reduce the revenue increase by \$115,500, thus requiring a \$115,500 increase adjustment in the General Service volumetric rates to maintain the Settlement's \$3.4 million revenue increase target. This was confirmed by Black Hills witness Sullivan at the Settlement hearing. (Tr. 262-263).

³ However, Black Hills did adjust the impacts of the settlement rates on its CCS class revenue deficiencies in revised Exhibit TJS-12.

VI. Weather Normalization Adjustment (Oswalt)

Staff incorporates the discussion concerning weather normalization from the decision memo. Staff believes in the context of the Modified Settlement as a whole, the billing determinants appear to be reasonable. The Modified Settlement incorporates Attachment F filed by Black Hills on September 29, 2010, which includes proposed billing determinants. These are the same billing determinants proposed for temporary rates, final rates, and used in the Initial Settlement Agreement in this proceeding.

Further, consistent with the weather normalization discussion from the decision memo, Black Hills should be directed to use the PGA or uniform weather normalization methodology and 30-year normal HDDs when calculating temporary rates in its next rate proceeding. This is Black Hills' currently approved weather normalization methodology.

VII. Staff Analysis

Based upon the Board's discussion at the decision meeting and the removal of the IRM from the settlement of the issues in this case, staff believes that the Modified Settlement is reasonable and should be approved by the Board. Staff has provided Black Hills Energy with updated Board and Consumer Advocate rate case expenses and Black Hills Energy has filed proposed tariffs consistent with the Modified Settlement that include rate case expenses from this proceeding.

Staff is attaching an order for Board consideration since the issues that are retained in the Modified Settlement were determined to be reasonable by the Board at the decision meeting on January 7, 2011, and Black Hills Energy has requested an effective date for the tariffs reflecting the revenue increase no later than February 10, 2011.

VIII. Recommendation

Review and issue the attached order that rejects the initial tariff filing made by Black Hills Energy, approves the Modified Settlement, and approves the proposed tariff sheets filed by Black Hills Energy on February 3, 2011, as revised on February 4, 2011, in Docket No TF-2011-0024.

rl/cw