

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

**FILED WITH
Executive Secretary
January 11, 2011
IOWA UTILITIES BOARD**

IN RE:

**Black Hills/Iowa Gas Utility Company,
LLC d/b/a Black Hills Energy**

DOCKET NO. RPU-2010-0002

**MODIFIED
JOINT MOTION AND UNANIMOUS SETTLEMENT
AGREEMENT ON ALL ISSUES**

On this 11th day of January, 2011, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills Energy), Constellation New Energy-Gas Division, LLC (Constellation) and the Office of Consumer Advocate (OCA) hereby agree to the terms and conditions of this Modified Joint Motion and Unanimous Settlement Agreement On All Issues (Modified Settlement). Black Hills Energy, Constellation and the OCA are collectively referred to as "Parties."

ARTICLE I

Introduction

On June 8, 2010, Black Hills Energy, filed with the Iowa Utilities Board (Board) proposed gas tariffs identified as TF-2010-0075 and TF-2010-0076 pursuant to Iowa Code chapter 476 (2009). In TF-2010-0076, Black Hills Energy is proposing to increase its Iowa gas rates to produce a permanent annual jurisdictional revenue increase of approximately \$4,684,141, or an overall annual revenue increase of 2.9 percent. 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 June 18, 2010,

pursuant to Iowa Code § 476.6(10). On or about June 29, 2010, Constellation intervened in the rate proceeding.

On September 1, 2010, the parties filed a Joint Motion and Settlement Agreement On All Issues (Initial Settlement). Thereafter, on October 12, 2010, the Board held an evidentiary hearing on the Initial Settlement.

At a public meeting on January 7, 2011, at which the Board deliberated whether to approve the Initial Settlement, the Board stated that it found the proposed automatic adjustment tracker identified as the Investment Recovery Mechanism (IRM) to be unreasonable, but further stated that it found all other aspects of the Initial Settlement to be reasonable. The Board has not yet issued a written order that formally approves or disapproves the Initial Settlement, and thus the Initial Settlement is still pending before the Board for decision.

Based on the Board's discussion and guidance provided on January 7, 2011, the parties have reached agreement on the terms and conditions of this Modified Settlement and have agreed to withdraw the Initial Settlement and instead submit the Modified Settlement, which supersedes and replaces the Initial Settlement, to the Board for approval.

ARTICLE II

Purpose

This Modified Settlement has been prepared and executed by the Parties for the sole purpose of resolving all issues in this proceeding. The Parties understand and agree that the proposals, positions, and adjustment made or reflected in this Settlement Agreement On All Issues, whether expressed or implied, are made or obtained only through the spirit of compromise and are made subject to Article V herein.

The Parties have made diligent efforts to obtain this modified global settlement of all issues in this proceeding. The Parties had to make compromises in obtaining this modified settlement and while certain substantive individual issues could not be satisfactorily resolved individually, the end result on the revenue increase in this proceeding was achieved which was mutually satisfactory to the Parties. This will save substantial rate case expenses that would otherwise have to be borne by customers. Other specific outstanding issues were also addressed through specific terms and conditions herein.

In consideration of the mutual agreement set forth below, the Parties hereby agree as follows:

ARTICLE III

Joint Motion

The Parties hereby jointly move the Board to promptly issue an order approving this Modified Settlement in its entirety without condition or modification.

ARTICLE IV

Condition Precedent

This Modified Settlement shall not become effective unless and until the Board enters an order approving this Modified Settlement in its entirety without condition or modification.

ARTICLE V

Privilege and Limitation

This Modified Settlement is made pursuant to Iowa Code Section 17A.10 and 199 IAC 7.18, and shall become binding upon the Parties upon its execution, provided, however, if this Modified Settlement does not become effective in accordance with Article IV above, it shall be null, void, and privileged, and a revised procedural schedule shall be established which permits

the Parties to proceed on all issues. This Modified Settlement is intended to relate only to the specific matters referred to herein. No Party waives any claim or right which it may otherwise have with respect to any matter not expressly provided for herein. No Party shall be deemed to have approved, accepted, agreed, or consented to any principle or precedential determination, or be prejudiced or bound thereby in any other current or future proceeding before the Board. No Party or representative thereof shall directly or indirectly refer to this Modified Settlement or that part of any Board Order referring to this Modified Settlement in any other current or future rate proceeding before the Board.

ARTICLE VI

Revenue Increase

For purposes of this Modified Settlement, Black Hills Energy's annual natural gas revenue increase for its Iowa jurisdictional operation is \$3,400,000. This amount is to be adjusted upward to reflect the unamortized balance of prior rate cases expenses and the actual amount of rate case expense for this proceeding to be filed at the end of this proceeding, amortized over a three-year period.

ARTICLE VII

Investment Recovery Mechanism

The proposed Investment Recovery Mechanism (IRM) is withdrawn from consideration in this docket.

ARTICLE VIII

Rate Design

Interim customer charges will be the final rate customer charges:

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

ARTICLE IX

Tariff Sheets

Attached hereto and incorporated herein are the tariff sheets to implement the terms and conditions of this Modified Settlement. 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 herein by reference. The Parties agree that the tariff sheets are reasonable and should be approved no later than February 10, 2011.

ARTICLE X

Interim Increase

The Parties agree that if the Board enters an order approving this Modified Settlement in its entirety without condition or modification, no refund with interest shall be due to any of Black Hills Energy's customers pursuant to the corporate undertaking filed with the Board.

Respectfully submitted,

OFFICE OF CONSUMER ADVOCATE

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