

March 02, 2011

IOWA UTILITIES BOARD

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

IN RE:

BLACK HILLS/IOWA GAS UTILITY
COMPANY, LLC d/b/a BLACK HILLS
ENERGY

DOCKET NO. RPU-2010-0002

APPLICATION FOR CLARIFICATION OF CONCLUSIONS OF LAW

Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy ("***Black Hills Energy***"), pursuant to 199 IAC 7.27, applies to the Iowa Utilities Board ("***Board***") for clarification of two conclusions of law set forth in the final order issued in this docket on February 10, 2011, and states in support of its application:

1. On February 10, 2011, the Board issued a final order that includes the following two conclusions of law (at pages 9 and 10, respectively):

- This same [PGA rule weather normalization methodology] requirement applies to temporary rates, which are to be filed based upon previously-established regulatory principles. Iowa Code § 476.6(10)(b).
- In future rate cases, Black Hills Energy should file temporary rates based upon the 30-year heating degree days methodology approved by the Board.

2. In a more recent order issued in another ratemaking docket last week, the Board interpreted Iowa Code § 476.6(10) generally, and Iowa Code § 476.6(10)“b” specifically, as follows:

[Interstate Power and Light Company] selected the new option in § 476.6(10) for temporary rates. Instead of having the Board establish temporary rates applying previously-established regulatory principles (§ 476.6(10)“a”), *IPL chose to implement temporary rates on its own,*

*without Board review, within ten days of its initial rate case filing pursuant to § 476.6(10)“b.” Pursuant to § 476.6(10)“b,” refunds are required if final rates are below temporary rates. * * * Established regulatory principles are inapplicable to the situation here.* If the Board sets temporary rates (the option IPL did not select), the Board’s decision must be based on established regulatory principles. If the company selects the option implementing temporary rates within ten days without Board review, the statute is silent on established regulatory principles, with one exception. Section 476.6(10)“b” provides that if, at the conclusion of the proceeding, the Board determines temporary rates were not based on established regulatory principles, it could considering ordering refunds based upon the overpayments made by each individual customer class, rate zone, or customer group.¹

3. In light of this express Board interpretation of Iowa Code § 476.6(10), Black Hill’s Energy requests that the conclusions quoted in ¶ 1 above be clarified by revising them as follows:

- This same requirement applies to temporary rates implemented pursuant to Iowa Code § 476.6(10)(a), which are to be filed based upon previously established regulatory principles. ~~Iowa Code § 476.6(10)(b).~~— This requirement does not apply, however, to temporary rates implemented pursuant to Iowa Code § 476.6(10)(b), which are not required to be filed based upon previously established regulatory principles.
- In future rate cases, if Black Hills Energy chooses to implement temporary rates pursuant to Iowa Code § 476.6(10)(a), Black Hills Energy should file the temporary rates should be based upon the 30-year heating degree days methodology approved by the Board.

4. Additional statements appearing in the discussion of temporary rates on pages 9 and 10 of the final order issued on February 10, 2011, may also require revision to render them consistent with these clarified conclusions of law.

WHEREFORE, Black Hills Energy respectfully requests that the Board clarify the final order issued in this docket on February 10, 2011, in the manner set forth herein.

¹ “Order on Rehearing,” *In re Interstate Power and Light Company*, Docket No. RPU-2010-0001, at 7-8 (IUB Feb. 25, 2011) (emphasis added).

Dated March 2, 2011.

Respectfully submitted,

/s/ Philip E. Stoffregen

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