

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 08A-431G

2009 MAR 27 AM 11:38

IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO GAS UTILITY COMPANY, L.P., DOING BUSINESS AS BLACK HILLS ENERGY, FOR APPROVAL OF ITS NATURAL GAS DEMAND SIDE MANAGEMENT (DSM) PLAN FOR CALENDAR YEARS 2009, 2010 AND 2011 AND FOR APPROVAL OF A GAS DSM COST ADJUSTMENT CLAUSE AND FOR WAIVER OF RELATED RULES.

**RESPONSE OF BLACK HILLS/COLORADO GAS UTILITY  
COMPANY, L.P. DOING BUSINESS AS BLACK HILLS  
ENERGY'S VERIFIED RESPONSES TO QUESTIONS  
RELATING TO SETTLEMENT AGREEMENT**

**I. BACKGROUND**

1. On March 13, 2009, the ALJ informally advised that parties in the above-captioned proceeding that their request to vacate the hearing and all remaining procedural dates and deadlines would be granted.

2. Ordering Paragraph 3 of the Interim Order dated March 17, 2009 of Administrative Law Judge Dale E. Isley in the above captioned proceeding vacated the hearing and ordered that on or before March 27, 2009, the parties to the settlement in this proceeding shall submit verified responses to the questions set forth in Section 1, Paragraphs 8 through 11 of the of Decision No. R09-0287-I.

3. The attached affidavit of Matthew Daunis, Manager of Energy Efficiency for Black Hills contains the responses to the questions set forth in ALJ Isley's Decision No. R09-0287-I. The information contained within the Affidavit of Mr. Daunis is submitted on behalf of all the parties to the settlement in this proceeding.

4. This Response has been reviewed and approved by representatives of the Staff of the Commission and the Colorado Office of Consumer Counsel (OCC). Counsel for those

Parties, Anne K. Botterud, First Assistant Attorney General, counsel for Trial Staff, and Christopher Irby, Assistant Attorney General, counsel for OCC, have authorized counsel for Black Hills to state herein that Staff and the OCC have reviewed the responses and have authorized Black Hills to file it on behalf of all the Parties.

DATED: March 26, 2009.

BLACK HILLS/COLORADO GAS UTILITY  
COMPANY, LP



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Constance L. Rogers (Reg. No. 31679)  
Davis Graham & Stubbs LLP  
1550 17<sup>th</sup> Street, Suite 500  
Denver, CO 80202  
Telephone: (303) 892-7480  
Facsimile: (303) 893-1379  
Email: [Connie.Rogers@dgsllaw.com](mailto:Connie.Rogers@dgsllaw.com)

Steven H. Denman (Reg. No. 7857)  
Davis Graham & Stubbs LLP  
9040 Town Center Parkway  
Suite 213  
Lakewood Ranch, Florida 34202  
Direct line: 941-487-3657  
Denver number: 303-892-7459  
Denver fax: 303-893-1379  
Email: [steve.denman@dgsllaw.com](mailto:steve.denman@dgsllaw.com)

Douglas J. Law  
Senior Counsel  
Black Hills Corporation  
1815 Capital Avenue  
Omaha, NE 68102  
Telephone: (402) 221-2635  
Facsimile: (402) 221-2025  
Email: [douglas.law@blackhillscorp.com](mailto:douglas.law@blackhillscorp.com)

Attorneys for Black Hills/Colorado Gas Utility  
Company, LP

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IN THE MATTER OF THE APPLICATION )  
OF BLACK HILLS/COLORADO GAS )  
UTILITY COMPANY, L.P. D/B/A BLACK )  
HILLS ENERGY FOR APPROVAL OF ITS )  
NATURAL GAS DEMAND SIDE )  
MANAGEMENT (DSM) PLAN FOR )  
CALENDAR YEARS 2009, 2010 AND 2011 )  
AND FOR APPROVAL OF ITS GAS DSM )  
COST ADJUSTMENT CLAUSE AND FOR )  
WAIVERS OF RELATED RULES. )

DOCKET NO. 08A-431G

VERIFICATION

STATE OF KANSAS )

) SS:

COUNTY OF DOUGLAS )

1. I, Matthew Daunis, being duly sworn, do hereby depose and state that I am the Manager of Energy Efficiency, Black Hills Corporation, and am authorized to act on behalf of Black Hills/Colorado Gas Utility Company, L.P. d/b/a Black Hills Energy and other Parties to the Settlement Agreement to verify the responses attached to this Verification.

2. I further affirm that the following responses to Decision No. R09-0287-I, dated March 17, 2009, the Interim Order of Administrative Law Judge Dale E. Isley Vacating Hearing and Requesting Verified Responses to Questions Relating to Settlement Agreement, were prepared in coordination with each of the Parties to the Settlement Agreement filed in this proceeding.

3. To that end, the responses included with this verification are made on behalf of all of the Parties to the Settlement Agreement.

4. I affirm that I have read Decision No. R09-0287-I and the responses to the Interim Order of ALJ Isley; and that the facts set forth therein are true and correct to the best of my knowledge, information, and belief.

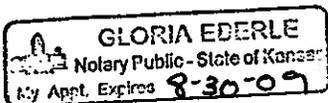
*Matthew Daunis*

Matthew Daunis  
Manager Energy Efficiency  
Black Hills Energy  
110 E 9<sup>th</sup> Street  
Lawrence, KS 66044

Subscribed and sworn to before me this 27th day of March, 2009

My Commission expires:

8-30-09



*Gloria Ederle*

Notary Public

**RESPONSES OF THE SETTLEMENT PARTIES TO THE REQUESTS OF  
ADMINISTRATIVE LAW JUDGE'S MARCH 17, 2009 INTERIM ORDER**

**Section I, Paragraph 8 - Requests :**

Section II, Paragraph 4 of the Settlement Agreement indicates that Black Hills' Gas DSM Plan (DSM Plan) will be implemented within 60 days after the effective date of the Commission's decision approving it. Section II, Paragraph 2 of the Settlement Agreement outlines the terms for approval of the first year of the three-year DMS Plan and paragraph 5 indicates that a request for approval of years two and three of the DMS Plan will be submitted within 60 days of the effective date of the Commission's anticipated decision modifying its Demand Side Management Rules (DSM Rules).

**Section I, Paragraph 8a Request :**

- a. Does this anticipate that the first year of Black Hills' DSM Plan will be a 12 month plan, covering approximately May 2009 through April 2010? If so, would Black Hills intend to file its first annual report on April 1, 2010, as required by Rule 4752(b), or at a later date, such as after completion of the first year of the DSM Plan? Please explain how the annual report will correspond with the first year savings and energy targets (discussed below), and whether a waiver of the rules pertaining to the annual report is being requested.

**Response to Paragraph 8a**

No. Black Hills Energy's DSM Plan will be implemented to follow a calendar year. If Commission approval is granted in the near future, Black Hills Energy anticipates that it will commence implementation of its DSM plan on or about May 1, 2009.

Black Hills intends to file its first annual report on April 1, 2010, as required by Rule 4752(b). Black Hills Energy will pro rate the expenditures during the first year, and thereafter may propose prudent adjustments to its plan as needed to account for a soft economy, low enrollment, or other significant impacts affecting the success of the plan as filed and approved. We anticipate that the annual report will report the first year savings and energy targets achieved. No waiver of the rules pertaining to the annual report is being requested.

**Section I, Paragraph 8b Request :**

- b. Will the implementation of Black Hills' DSM Plan under this timeframe establish this as the ongoing program cycle for subsequent DSM plans? If so, how does this affect the proposed DSMCA filing schedule set forth in paragraph 6(b) of the Settlement Agreement (i.e., filing the next 12 months projected expenditures on October 1, to take effect January 1, and filing the bonus and deferred costs on April 1, to take effect July 1)?

**Response to Paragraph 8b**

No. See Response to Paragraph 8a above. A calendar year is consistent with the DSM plan filed by Black Hills Energy. The proposed DSMCA filing will be made consistent with the schedule set forth in paragraph 6(b) of the Settlement Agreement. Black Hills Energy's Gas DSM Plan is set up for a calendar year and its bonus plan will be filed accordingly.

**Section I, Paragraph 8c Request**

- c. Does the Settlement Agreement address the potential "gap" between the first year of the DSM Plan and years two and three of the DSM Plan in the event the Commission's anticipated amendment of the DSM Rules is not finalized prior to the end of the first year of the DSM Plan or in the event that the proposed application for approval of years two and three of the DSM Plan is not administratively final prior to the end of the first year of the DSM Plan? If so, describe how these scenarios are addressed. If not, describe how the parties would address these scenarios (i.e., would the terms of the first year of the DSM Plan continue on a month-to-month basis until the anticipated amendments to the DSM Rules and/or the application for approval of years two and three of the DSM Plan are finalized?).

**Response to Paragraph 8c**

No. The Parties believed the Commission would act promptly to commence the Gas DSM rulemaking. Indeed, at the Weekly Meeting of March 18, 2009, the Commission decided to issue a notice of proposed rulemaking (NOPR) regarding the Gas DSM Rules. Black Hills has not yet received the NOPR. If the Commission has not finalized its Gas DSM Rulemaking by the time the second Plan year will commence, then Black Hills Energy will continue providing its effective Gas DSM Programs initiated under the first year on a month-to-month basis. Black Hills Energy will continue the spending levels approved for the first year of its programs. Those programs will proceed until either the Commission adopts final rules, or terminates the rulemaking without revising the discount rate provisions of the Gas DSM rules (the latter of which is not likely).

**Section I, Paragraph 9 Request :**

Section II, Paragraph 2 of the Settlement Agreement requests approval of the low-income portion of the DSM Plan "even though the low-income programs do not pass the DSM Cost-

effectiveness Screening using the discount rate of 7.67%.” Rule 4753(f) of the DSM Rules states that “the utility may propose one or more low-income DSM programs that yield a modified TRC test value below 1.0.”

**9(a).** Is the Settlement Agreement seeking specific authorization beyond what this rule provides?

**9(b).** Black Hills is requested to provide the Modified Total Resource Test (TRC) results for the low-income programs using the 7.67 percent discount rate.

**Response to Paragraph 9**

**Response 9(a).** No. The Settlement Agreement is not seeking specific authorization beyond what the rule provides. All Parties to the Settlement Agreement acknowledge that low-income programs do not need to yield a TRC test value of 1.0 or greater, and the Parties were only seeking express approval of that clarification.

**Response 9(b).** The B/C ratio for Low-Income programs using a 7.67% discount rate is 0.62. This figure is shown on Exhibit-MED-1, attached to the rebuttal testimony of Black Hills Energy’s witness Matthew Daunis, which was filed in this proceeding on March 2, 2009.

**Section I, Paragraph 10 Request :**

A review of the Settlement Agreement suggests that the Residential New Construction Program and the Industrial Sector Outreach Program have been removed from the first year of the DSM Plan.

**10(a).** Is this due to their cost-effectiveness not exceeding the benefit/cost ratio of 1.0 under the 7.67 percent discount rate?

**10(b).** Black Hills is requested to provide the TRC calculation results for these programs using the 7.67 percent discount rate.

**Response to Paragraph 10**

**Response 10(a).** Residential New Construction – Yes. This program will not be offered under the requirement to use the 7.67 percent discount rate. Accordingly, the Parties to the settlement agreed that it should be removed from the Settlement Agreement for consideration of approval.

The Industrial Sector Outreach Program was inadvertently omitted from specific reference in the Settlement Agreement. Black Hills Energy intends to provide its Industrial Sector Outreach Program. However, it should be clarified that no specific spending or savings are included in Black Hills Energy's Energy Efficiency plan, as the funding for these programs will originate from sources outside of Black Hills Energy. More likely, funding will come from the Department of Energy, a Colorado state agency, or some other funding entity. Accordingly, as noted in the response below, without specific spending or savings originating from Black Hills Energy there is neither a need nor does Black Hills Energy possess the data required to provide a TRC calculation for the Industrial Sector Outreach program.

**Response 10(b).** The B/C ratio for Res New Construction is 0.78. Like the calculation for Low Income, this calculation can found in Exhibit-MED-1, attached to the Rebuttal Testimony of Mr. Daunis. As reflected in the plan, since no specific dollars or programs were proposed for NR-5, Industrial Sector Outreach, there is no calculated B/C ratio. The Settlement Order in proceeding should include approval of the NR-5, Industrial Sector Outreach program.

**Section I, Paragraph 11 Request :**

Rule 4752 of the DSM Rules requires that the DSM Plan include a "savings target" defined as: "The utility's estimated annual natural gas energy savings for the DSM plan years, expressed in dekatherms per dollar of expenditure, and presented for each DSM program proposed for Commission approval." Rule 4752 of the DSM Rules also requires that the DSM Plan include

an “energy target” defined as: “The anticipated annual units of energy to be saved, which equals the product of the proposed expenditure target and proposed savings target.”

**Request 11(a).** What are the savings and energy targets for the first year of the DSM Plan that result from approval of the Settlement Agreement?

**Request 11(b).** If these targets are anticipated to cover a period other than 12 months, please indicate that in the response, including any provision for incremental increases in order to avoid the “gap” discussed above.

**Response to Paragraph 11**

**Response to 11(a)** The energy targets, estimated expenditures and savings targets for 2009 are set forth in the table below. The estimated expenditures and savings represent a pro-rated amount for 2009. Black Hills Energy anticipates a May 1, 2009 date of commencement for its Colorado DSM programs. However, participation and enrollment in its various programs may not occur in significant numbers until some time after communication and education of its customers occurs. Black Hills Energy also notes that, after it gains experience with the implementation of its programs, it may propose to the Commission adjustments to its DSM programs implemented in this docket.

Program Name	Program Goals	2009
Residential Audit	Energy Target (DTh)	910
	Estimated Expenditures (\$)	\$ 45,619
	Savings Target (DTh/\$)	0.02
Residential Envelope	Energy Target (DTh)	2,253
	Estimated Expenditures (\$)	\$105,881
	Savings Target (DTh/\$)	0.02
Residential Space and Water Heat	Energy Target (DTh)	12,418
	Estimated Expenditures (\$)	\$315,219
	Savings Target (DTh/\$)	0.04
Non-Residential Audit	Energy Target (DTh)	-
	Estimated Expenditures (\$)	\$ 10,733
	Savings Target (DTh/\$)	-
Non-Residential Prescriptive	Energy Target (DTh)	2,831
	Estimated Expenditures (\$)	\$ 52,417
	Savings Target (DTh/\$)	0.05
Non-Residential Custom	Energy Target (DTh)	1,667
	Estimated Expenditures (\$)	\$ 25,289
	Savings Target (DTh/\$)	0.07

Non-Residential New Construction	Energy Target (DTh)	1,000
	Estimated Expenditures (\$)	\$ 45,333
	Savings Target (DTh/\$)	0.02
Residential Low Income	Energy Target (DTh)	975
	Estimated Expenditures (\$)	\$145,949
	Savings Target (DTh/\$)	0.01
School Based Energy Education	Energy Target (DTh)	406
	Estimated Expenditures (\$)	\$ 17,333
	Savings Target (DTh/\$)	0.02
Across-Program Training, Marketing & Administration	Energy Target (DTh)	-
	Estimated Expenditures (\$)	\$133,333
	Savings Target (DTh/\$)	-

Total Plan	Energy Target (DTh)	22,458
	Estimated Expenditures (\$)	\$897,108
	Savings Target (DTh/\$)	0.03
Ratio for 2009 prorate:		67%

**Response to 11(b).** See response to 11(a) above. The table above represents an anticipated commencement date of May 1, 2009. That date assumes receiving satisfactory Commission approval of the Settlement Agreement within a short period of time. Black Hills Energy would continue the estimated expenditures in 2010 and 2011 until the Commission completes its anticipated rulemaking.

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COUNTY OF DOUGLAS )

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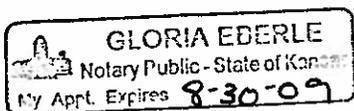
*Matthew Daunis*

Matthew Daunis  
Manager Energy Efficiency  
Black Hills Energy  
110 E 9<sup>th</sup> Street  
Lawrence, KS 66044

Subscribed and sworn to before me this 27th day of March, 2009

My Commission expires:

8-30-09



*Gloria Eberle*  
\_\_\_\_\_  
Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of March 2009 the foregoing **SETTLEMENT AGREEMENT AND MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT** were filed by facsimile with:

Doug Dean, Director  
Colorado Public Utilities commission  
1560 Broadway, Suite 250  
Denver, CO 80202

The original and four (4) copies will be delivered by hand delivery on the first date the PUC reopens. A copy was served electronically on the following persons by email addressed to:

Steven M. Jurek  
Black Hills/Colorado Gas Utility  
Company, LP  
1815 Capitol Avenue  
Omaha, NE 68102  
Steve.Jurek@blackhillscorp.com

Douglas J. Law  
Senior Counsel  
Black Hills Corporation  
1815 Capital Avenue  
Omaha, NE 68102  
Douglas.law@blackhillscorp.com

David Beckett  
First Assistant Attorney  
General  
Office of the Attorney General  
1525 Sherman Street, 6<sup>th</sup> Floor  
Denver, CO 80203  
David.beckett@state.co.us

Stephen Southwick  
Office of the Attorney General  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203  
Stephen.southwick@state.co.us

Christopher Irby  
Office of the Attorney General  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203  
Chris.irby@state.co.us

PB Schechter  
Rate/Financial Analyst  
Office of Consumer Counsel  
1560 Broadway, Suite 200  
Denver, CO 80202  
Pb.Schechter@dora.state.co.us

Paul Caldara  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Paul.caldara@dora.state.co.us

Karl Kunzie  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Karl.kunzie@dora.state.co.us

Billy Kwan  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Billy.kwan@dora.state.co.us

Harry DiDomenico  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Harry.Didomenico@dora.state.co.us

Jeff Ackermann  
Advisory Staff  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Jeffrey.Ackermann@dora.state.co.us

Jean S. Watson-Weidner  
Assistant Attorney General  
Department of Law  
Office of the Attorney General  
1525 Sherman Street, 5<sup>th</sup> Floor  
Denver, CO 80203  
jsw@state.co.us

Anne K. Botterud  
First Assistant Attorney General  
Department of Law  
Office of the Attorney General  
1525 Sherman Street, 5<sup>th</sup> Floor  
Denver, CO 80203  
Anne.botterud@state.co.us

Honorable Dale E. Isley  
Administrative Law Judge  
Public Utilities Commission  
1560 Broadway, Suite 250  
Denver, CO 80202  
Dale.Isley@dora.state.co.us

