

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is entered into this 4th day of March, 2010, by and between the City of Woodland Park, Colorado (“the City”) and Black Hills/Colorado Gas Utility Company d/b/a Black Hills Energy (“Black Hills”).

WHEREAS, Black Hills installed a compressor (the “Compressor”) on leased property on lot 202 of the Stone Ridge Subdivision, which is within the City’s boundaries as a temporary solution to low pressure conditions; and

WHEREAS, Black Hills filed a Complaint, Motion for Temporary Restraining Order, and Motion for Preliminary Injunction on December 4, 2009 against the City in the District Court, County of Teller, State of Colorado, Case No. 09CV428 (“the Lawsuit”); and

WHEREAS, the City filed an Answer to the Complaint and responses to the Motions; and

WHEREAS, the Court held a preliminary injunction hearing and granted a preliminary injunction in favor of Black Hills; and

WHEREAS, Black Hills filed an application (“PUC Application”) in Proceeding No. 09A-872G, with the Colorado Public Utilities Commission (“PUC”) appealing the City’s decision denying Black Hill’s Application for a Conditional Use Permit and Amendment to the Stone Ridge Planned Use Development (“PUC Proceeding”); and

NOW, THEREFORE, in consideration of avoiding the risks of litigation, additional attorney’s fees and costs, and the inconvenience of further court and regulatory proceedings, the parties agree as follows:

1. Payment by Black Hills: Within 10 days of the final approval of this Settlement Agreement by the PUC, Black Hills agrees to pay the City a \$45,000 mitigation payment, to be utilized in the sole discretion of the City provided, however, that as to any site-specific mitigation, the City must notify Black Hills prior to such mitigation and schedule such mitigation with Black Hills and such site-specific mitigation shall not be a violation of Black Hills’ ground lease, shall not interfere with the operation, repair, maintenance or removal of the Compressor, and shall comply with all applicable laws, rules and regulations including, but not limited to, all applicable Department of Transportation regulations under the Pipeline Safety Act.

2. Notification of Long Term Solution: Black Hills has been evaluating two long-term solutions to the low pressure conditions, both of which involve switching to receiving higher BTU gas from Line 212A owned by Colorado Interstate Gas Company (“CIG”). The two options are: (a) CIG builds an air blending facility to reduce the BTU content of the gas by injecting air into the gas stream (“Option A”), or (b) the Black Hills revises its tariff to increase the minimum heating value for customers receiving gas from the CIG 212A line and implements a program to address interchangeability issues (“Option B”). Black Hills expects either option to be implemented no later than November 1, 2011. Black Hills agrees to provide notice to the City

no later than June 1, 2010, of its decision regarding which long-term solution it has elected to pursue.

3. Removal of Compressor: Black Hills agrees to remove the Compressor after successful implementation of Option A or Option B, but in any event no later than November 1, 2011, subject to the provisions of this Paragraph 3. If, due to the occurrence or existence of any event or condition (i) beyond the control of Black Hills or Woodland Park, and (ii) not due to an act or omission of Black Hills or the City of Woodland Park, (iii) which could not have been avoided by due diligence and use of reasonable efforts by Black Hills or the City of Woodland Park, the successful implementation of Option A or Option B is delayed, Black Hills shall be obligated to take all reasonable steps to remove the event or condition causing such delay as promptly as possible. Black Hills shall give the City notice and full particulars (including any supporting documentation) of any event or condition of such delay as soon as practicable after the occurrence thereof. If the removal of the Compressor is delayed until after November 1, 2011, Black Hills agrees to remove the Compressor at the earliest possible date after the event or occurrence delaying the successful implementation of Option A or Option B has ceased and Option A or Option B is successfully implemented. Black Hills further agrees to reseed the site and fill any hole or depression remaining after the removal of the Compressor as required by its ground lease with the landlord. Further, Black Hills will not be required to obtain any conditional use permit, zoning development permit or any other permit from the City to remove the Compressor or to otherwise comply with provisions of the ground lease with the landlord.

4. Dismissal of Lawsuit: Within 20 days of payment by Black Hills as set forth in paragraph 1, counsel for the City and Black Hills shall file a stipulation with the District Court, Teller County dismissing all claims in the Lawsuit with prejudice, each party to bear their own costs and attorney's fees. Counsel shall also file a proposed form of order with the District Court, Teller County dismissing the Lawsuit and vacating the Order granting Preliminary Injunction.

5. Approval by the PUC: This Settlement Agreement shall not become effective until the issuance of a final Commission Order approving this Settlement Agreement and authorizing Black Hills to maintain, repair and operate the temporary compressor until November 1, 2011 (subject to the provisions of Paragraph 3 of this Settlement Agreement), which Order does not contain any modifications of the terms and conditions of this Settlement Agreement that are unacceptable to either of the parties. The parties acknowledge that the Trial Staff of the Commission is a party in the PUC Proceeding and has the right to support, oppose or not comment on the Settlement Agreement. The Trial Staff and its counsel will be provided with copies of this Settlement Agreement and Black Hills and the City will make themselves available to respond to any questions or concerns on the part of Trial Staff. Promptly upon execution of this Settlement Agreement by Black Hills and the City, Black Hills shall prepare and circulate to the City for approval and then file a Joint Motion asking the PUC to approve the Application subject to the terms and conditions of this Settlement Agreement. The parties agree that all pre-filed testimony and exhibits of the Parties shall be admitted into evidence in the PUC Proceeding without cross-examination. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to either party, that party shall have the right to withdraw from this Settlement Agreement and proceed to hearing on the PUC Application. Upon the entry of a final

Commission Order approving the Application subject to the terms and conditions of this Settlement Agreement, in the event a dispute arises regarding any of the terms and conditions of that Order (including the terms and conditions of this Settlement Agreement), the parties agree that their sole remedy shall be the filing of an appropriate motion in the PUC Proceeding for clarification or modification of the Order or other resolution of the dispute.

6. Waiver and Release by Black Hills: In so doing, and in exchange for all of the covenants contained in this Agreement as well as other good and valuable consideration, Black Hills waives and releases any and all claims, actions, lawsuits, demands, or choses in action against the City, its successors, assigns, agents, attorneys, and heirs, arising from actions which took place before the date of this Agreement, including, without limitation, any claims that were raised or which could have been raised, whether known or unknown, in the Lawsuit or PUC Proceeding, and including, without limitation, any claims for attorney's fees and costs arising from the Lawsuit or PUC Proceeding.

7. Waiver and Release by the City: In so doing, and in exchange for all of the covenants contained in this Agreement as well as other good and valuable consideration, the City, for itself, its successors, assigns, agents, attorneys, and heirs, waives and releases any and all claims, actions, lawsuits, demands, or choses in action, whether known or unknown against Black Hills, its successors, assigns, agents, attorneys, heirs, directors, and members arising from actions which took place before the date of the Agreement, including, without limitation, any claims for attorney's fees and costs arising from the Lawsuit and PUC Proceeding.

8. No Admission: By executing this Agreement none of the parties admits any allegation set forth in any pleading in the Lawsuit or the PUC Proceeding.

9. Consultation with Counsel: By signing this Agreement, each party acknowledges that it has read and understood the Agreement and that it had the opportunity to consult with legal counsel prior to signing the document.

10. Choice of Law: This Agreement shall be governed by the laws of the State of Colorado.

11. Binding Agreement: This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and to their respective agents, employees, representatives, trustees, officers, directors, shareholders, divisions, parent corporations, subsidiaries, entities for whom they represent, heirs, assigns, and successors in interest.

12. Voluntary Agreement: The Parties have entered into this Agreement for reasons of their own, and not based upon the representations or statements of any other Party or person.

13. Entire Agreement: This Agreement constitutes the entire agreement among the Parties. This Agreement shall not be altered, amended, modified or otherwise changed except in writing duly executed by each of the Parties or their authorized representatives. None of the Parties shall claim in the future that this Agreement has been orally altered, amended, modified or changed.

14. Headings: The headings in this Agreement are for convenience and reference only, and shall not affect the meaning or interpretation of the text of this Agreement.

15. No Release for Breach of this Agreement: Nothing herein shall release any Party hereto from any claims or rights arising from or relating to a breach of this Agreement.

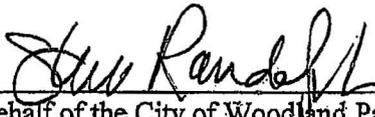
16. Authority/Capacity: Each person signing this Agreement warrants that he or she has complete authority and legal capacity to enter into this Agreement on behalf of the entity for which he or she is signing, and agrees to defend, indemnify, and hold harmless all other parties if that authority or capacity is challenged.

17. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

18. No Waiver: No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

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On behalf of Black Hills/Colorado Gas Utility
Company, LP



On behalf of the City of Woodland Park

Title

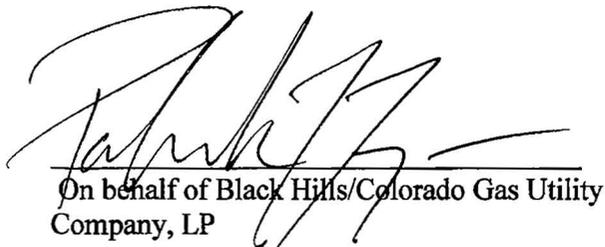
Mayor

Title

Date

3/4/2010

Date


On behalf of Black Hills/Colorado Gas Utility
Company, LP

SENIOR Counsel
Title

3.10.2010
Date

On behalf of the City of Woodland Park

Title

Date