

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 11A-580E

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IN THE MATTER OF THE APPLICATION OF BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP, FOR AN ORDER (1) APPROVING ITS GAS MITIGATION PLAN REQUIRED TO BE FILED BY DECISION NO. C09-0184 IN DOCKET NO. 08A-346E, AND (2) APPROVING A MODIFICATION TO THE COMPANY'S ELECTRIC COST ADJUSTMENT TARIFF TO AUTHORIZE THE COMPANY TO RECOVER ALL COSTS OF THE GAS MITIGATION PLAN THROUGH THE COMPANY'S ELECTRIC COST ADJUSTMENT TARIFF.

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**ORDER GRANTING APPLICATION**

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Mailed Date: October 25, 2011  
Adopted Date: August 31, 2011

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of an application filed by Black Hills/Colorado Electric Utility Company, LP, doing business as Black Hills Energy (Black Hills) for approval of the financial gas hedging plan for its electric department (the Gas Mitigation Plan). Black Hills filed the application on July 1, 2011. The application represents Black Hills' compliance with the Commission's directive in Decision No. C09-0184 in Docket No. 08A-346E, issued February 24, 2009. The application contains the proposed Gas Mitigation Plan, the direct testimonies of Kyle White and Trent Cozad, and Black Hills' presentation of the associated changes to its Energy Cost Adjustment (ECA) tariff.

2. Black Hills filed both public and highly confidential testimony and exhibits with the application. Black Hills filed a Motion for Protective Order with respect to the highly confidential testimony and exhibits. Consistent with Rule 1100(a)(III) of the Rules of

Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, Black Hills has attached to the motion an affidavit containing the names of all persons with access to the information alleged to be extraordinarily confidential and the estimated period of time for which the information must remain undisclosed, as well as a specific form of nondisclosure agreement. Good cause exists and the motion will be granted.

3. Also, on July 1, 2011, Black Hills filed a motion requesting that the Commission issue its decision no later than December 15, 2011. By this Order, we will satisfy the request in this motion and, therefore, it will be granted.

4. Subsequently, Black Hills filed a supplement to its application. In the supplement, Black Hills proposes to add reporting requirements and a commitment to provide the Commission the opportunity to review the Gas Mitigation Plan if Black Hills would like to extend it beyond four years.

5. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on July 11, 2011.

6. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is uncontested. Under § 40-6-109(5), C.R.S., this matter may be determined without a hearing.

7. Now being duly advised in the matter, we grant Black Hills' unopposed Application for approval of its electric department Gas Mitigation Plan.

## **B. Discussion**

8. Black Hills, through the Electric Resource Plan process, was authorized to build two natural gas-fired LMS-100 turbines and Black Hills' IPP was awarded, following a competitive solicitation, two GE LM6000 2 x 1 natural gas-fired combined cycle units.

All of these units are located at the Pueblo Airport Generating Station (PAGS) and will be in service by January 1, 2012. As a result of locating all of these gas plants at PAGS, the sources of natural gas fuel supply and the transportation arrangements available for the delivery of that supply to PAGS are the same for all units. Thus, Black Hills has determined that its Gas Mitigation Plan should cover all fuel to be consumed at PAGS.<sup>1</sup>

9. Black Hills is not requesting that we approve specific hedging actions. Rather, it requests approval of a general hedging strategy with overall bounds. For the electric department's Gas Purchase Years July 1, 2011 through June 30, 2015, the plan within the application includes: (a) the hedging strategy and implementation plan; (b) the volume of natural gas to be hedged; and (c) the hedging budget. In addition, the application, as supplemented, sets forth (a) the provision of an annual report on or before April 1st of each year; (b) the ability to operate the hedging plan as indicated for four years with the requirement that Black Hills file on or before April 1, 2015 for Commission approval to extend, modify, or terminate the Gas Mitigation Plan; and (c) the recovery of hedging costs through the ECA. Finally, Black Hills seeks permission to file a compliance advice letter (in the form of Exhibit TC-1 to the testimony of Trent Cozad), which contains the hedging costs.

10. With respect to the ECA tariff revisions, Black Hills proposes to change its ECA tariff to permit recovery of the costs described in the Gas Mitigation Plan. Specifically, Black Hills proposed to include "all costs related to gas price volatility risk management" in the energy production and purchase costs that are recovered through the ECA tariff, as well as in the formula for calculating the ECA.

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<sup>1</sup> The consumed fuel may also include the fuel associated with a possible third LMS100 at PAGS, which LMS100 is the subject of a pending application by Black Hills for a certificate of public convenience and necessity. See Docket No. 11A-226E.

11. Based on our review of the record, and considering that no party opposes the application, we find that the Gas Mitigation Plan and related commitments contained in the application, as supplemented, represent a reasonable strategy to mitigate gas price volatility.

12. Therefore, we will grant the application of Black Hills for approval of its Gas Mitigation Plan for its electric department for the period July 1, 2011 through June 30, 2015. Any longer term hedges that have been placed within this time frame and have not run their course by the conclusion of June 30, 2015 will be allowed to remain in effect in accordance with the terms of those hedging contracts regardless of any future Commission decisions related to Black Hills' Gas Mitigation Plan that has been reviewed in this matter.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The July 1, 2011 Motion for Protective Order Affording Extraordinary Protection to Highly Confidential Information (Motion for Protective Order) filed by Black Hills/Colorado Electric Utility Company, LP, doing business as Black Hills Energy (Black Hills), is granted.

2. The types of information and documents described in the Motion for Protective Order are granted the extraordinary protections sought by Black Hills.

3. Commissioners, Commission Administrative Law Judges, Commission Staff, the Colorado Office of Consumer Counsel, and their respective attorneys shall be granted access to the confidential material.<sup>2</sup>

4. To have access to the types of documents and information protected by this Order, employees of the Colorado Office of Consumer Counsel must have signed, served, and filed with

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<sup>2</sup> As there are no intervenors, the Commission is not granting access at this time to any other person identified in Black Hills' motion.

the Commission the Nondisclosure Agreement that is attached to Black Hills' Motion for Protective Order.

5. To have access to the types of documents and information protected by this Order, attorneys employed by the Colorado Attorney General must represent the Commission, Commission Staff, or the Colorado Office of Consumer Counsel in this proceeding *and* must have signed, served, and filed with the Commission the Nondisclosure Agreement that is attached to Black Hills' Motion for Protective Order.

6. To have access to the types of documents and information protected by this Order, members of the Staff of the Commission must have signed and have on file with the Commission a current annual nondisclosure agreement in accordance with Rule 4 *Code of Colorado Regulations* 723-1-1100(g).

7. All persons who have access to the types of documents and information protected by this Order shall maintain and shall treat the documents and information in accordance with the extraordinary protections specified in Ordering Paragraph No. 2, above.

8. The July 1, 2011 motion requesting that the Commission issue its decision no later than December 15, 2011 filed by Black Hills is granted.

9. The July 1, 2011 Application, as supplemented, filed by Black Hills for approval of its Gas Mitigation Plan is granted.

10. Black Hills is authorized to file, on not less than one day's notice to the Commission, an advice letter and tariff sheets, attached as Appendix A and made a part of this Order. The advice letter and tariff shall initiate a new advice letter proceeding.

11. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Order.

12. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 31, 2011.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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JAMES K. TARPEY

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MATT BAKER

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Commissioners