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Rapid City SD 57702

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

South Dakota Public Utilities Commission
500 E Capitol Ave
Pierre, SD 57501

Subject: Formal Objection and Request for Strict Prudence Review – Docket EL26-003

Dear Commissioners,

I submit this filing as a formal objection to the application of Black Hills Power, Inc. dba Black Hills Energy in Docket EL26-003.

The Company seeks to impose a \$50,553,697 annual revenue increase, resulting in an approximate 25.4% rate increase for residential customers. Such an extraordinary request triggers the Commission's highest duty of scrutiny under South Dakota law.

Pursuant to SDCL § 49-34A-6, all rates must be just and reasonable. Under SDCL § 49-34A-8, the burden of proof rests entirely with the utility. This burden is not procedural—it is substantive. The Company must affirmatively demonstrate that each category of cost is prudently incurred, necessary, and fairly allocated.

To the extent this application relies on tariff-related cost increases, it fails that standard.

Tariffs are foreseeable, recurring, and well-documented elements of the modern energy supply environment. They are not force majeure events. They are not unknowable. They are not beyond the scope of utility planning. As such, exposure to tariff-related costs is a textbook example of a risk that must be actively managed through procurement strategy, contractual structuring, and financial hedging.

If Black Hills Energy did not mitigate this exposure, that failure constitutes imprudence.

If it did mitigate such exposure, then it must provide detailed evidentiary support demonstrating the scope, timing, and effectiveness of those mitigation efforts.

Anything less is insufficient as a matter of law.

The Commission should reject any attempt to normalize the automatic pass-through of tariff-driven costs. Doing so would fundamentally alter the regulatory compact by eliminating shareholder risk while preserving guaranteed returns. This creates an asymmetrical framework in which:

- Gains remain privatized

- Losses are socialized
- Risk is transferred entirely to captive ratepayers

This outcome is inconsistent with the principles articulated in *Federal Power Commission v. Hope Natural Gas Co.*, *Bluefield Water Works & Improvement Co. v. Public Service Commission*, and *Duquesne Light Co. v. Barasch*, all of which confirm that utilities are not entitled to recover all costs—only those that are prudently incurred within a just and reasonable rate structure.

Accordingly, I formally request that the Commission:

1. Disallow recovery of any tariff-related costs not supported by clear evidence of prudent mitigation
2. Require granular documentation of procurement decisions, including timing, supplier selection, and cost controls
3. Apply a strict prudence standard that evaluates decision-making at the time costs were incurred—not after the fact
4. Reject any proposal that shifts unmanaged market risk onto ratepayers

Absent such findings, approval of this rate increase would constitute an abdication of the Commission's statutory duty under SDCL § 49-34A-6.

As an individual customer, I have reduced my consumption and invested in alternative heating to limit reliance on the grid. This demonstrates the inescapable nature of the burden being imposed and underscores the need for rigorous regulatory protection.

Ratepayers are not counterparties to global trade policy, nor are they guarantors of utility financial performance.

For these reasons, I respectfully demand that the Commission deny or materially reduce the requested rate increase unless and until Black Hills Energy satisfies its full legal burden.

Sincerely,
Kelly Thomas