

## IOWA UTILITIES BOARD

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| IN RE:<br><br>BLACK HILLS/IOWA GAS UTILITY<br>COMPANY, LLC, d/b/a BLACK HILLS<br>ENERGY | DOCKET NO. EEP-2022-0225 |
|---|--------------------------|

### **ORDER ESTABLISHING PROCEDURAL SCHEDULE, GRANTING INTERVENTION, AND APPOINTING PRESIDING OFFICER**

#### **PROCEDURAL BACKGROUND**

On March 31, 2023, Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills) filed with the Utilities Board (Board) an application for approval for its proposed 2024-2028 energy efficiency plan. On May 16, 2023, the Board issued an order docketing Black Hills' application as a contested case and setting an intervention deadline. The Board attached to the order a tentative procedural schedule and invited comments to the proposed schedule by parties and any person who timely sought intervention.

On June 5, 2023, the Office of the Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed a response requesting the tentative procedural schedule be modified in two respects. First, OCA requested that the July 21, 2023 deadline for OCA and Intervenor direct testimony be changed to July 28, 2023, and second, due to witness unavailability, OCA requested the hearing date be changed to a date after October 20, 2023.

On June 7, 2023, Black Hills filed its response. With respect to OCA's request that the OCA and Intervenor direct testimony date be changed to July 28, 2023, Black Hills indicated it had no objection to OCA's request so long as all other dates are moved

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back by one week. With respect to OCA's request to change the tentative hearing date, Black Hills proposed a number of potential new hearing dates, including October 25, 2023. No party filed a response to Black Hills' proposed hearing dates.

On June 2, 2023, the Clean Energy Districts of Iowa (CEDI) filed a petition to intervene.

### **PROCEDURAL SCHEDULE AND MARKING OF TESTIMONY AND EXHIBITS**

A comprehensive procedural schedule will be set for this docket and is attached to this order as Attachment A. The Board modified the tentative procedural schedule as requested by OCA.

Parties to the docket may file prefiled testimony and exhibits as described in 199 Iowa Administrative Code (IAC) 7.10. Testimony should be in question-and-answer format, with numbered lines if possible. All testimony and exhibits shall be marked as set in the following naming convention:

- Testimony shall be designated using the filing party's name, last name of the witness, and then the type of testimony: "Direct," "Rebuttal," "Reply," or "Supplemental." Example: "[Filing Party Name] Smith Direct Testimony." The testimony shall be marked and offered into evidence at the hearing.
- Testimony shall be labeled on each page using the filing party's name, last name of the witness, then the type of testimony, and page X of X in the upper right corner of the page. Example: "[Filing Party Name] Smith Direct Testimony Page X of X."
- Any evidence supported by a witness shall be marked with the witness' last name and then the exhibit, the type of exhibit, and the exhibit number. Exhibits shall be filed separately from the testimony. Examples: "[Filing Party Name] Smith Direct Exhibit 1" or "[Filing Party Name] Smith Direct Exhibits 1, 2, 3." Parties may combine exhibits into a single filing subject to a limit of five megabytes and fewer than 20 separate documents per filing.
- Information in an exhibit may be formatted and identified based upon the filing party's internal policies and shall be identified with the exhibit number on the top right of each page of the exhibit.
- Hearing exhibits shall be marked with the filing party's name and the exhibit number. Example: "[Filing Party Name] Smith Direct Exhibit 1, Workpapers."

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Workpapers do not need to be provided to the court reporter unless the workpapers are made an exhibit at the hearing.

- Testimony and supporting documents should be titled following the described naming convention when entering the document titles in the Board's electronic filing system (EFS). Documents that do not comply with this naming convention will not be accepted for filing.
- Exhibits not previously filed in EFS prior to hearing shall be filed in EFS within three days of the conclusion of the hearing.

### INTERVENTION

CEDI states it is a nonprofit corporation and association of clean energy districts<sup>1</sup> in Iowa that provides local leadership to energy customers and communities, such as providing technical assistance on energy efficiency, building electrification, solar site assessments, distributed generation, and electric transportation. CEDI further states that it has participated in stakeholder meetings regarding Black Hills' proposed energy efficiency plan. CEDI anticipates participating in the proceeding, including through the filing of testimony.

Iowa Administrative Code (IAC) 199—7.13(3) provides that “[a]ny person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the board . . . .” In determining whether to grant intervention, the Board shall consider factors including, but not limited to, the prospective intervenor's interest in the subject matter of the proceeding, the effect a final decision in the proceeding may have upon the prospective intervenor's interest, and the extent to which the prospective intervenor may be expected to assist in the development of a sound record. *Id.*

CEDI asserted, among other things, that it has an interest in the outcome of these proceedings and intends to participate in this proceeding. Applying the 199 IAC

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<sup>1</sup> CEDI states there are 10 incorporated energy districts in Iowa, located in Allamakee, Clayton, Delaware, Dubuque, Howard, Jackson, Johnson, Linn, Polk, and Winneshiek counties.

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7.13(3) factors, the Board concludes CEDI stated sufficient grounds for granting its petition to intervene.

Finally, pursuant to rule 7.4(8)(a), a party to a proceeding before the Board may appear and be heard through an attorney licensed by the state of Iowa. The term “party” encompasses intervenors. *Id.* at r. 199—7.2. The Board’s rule regarding representation further provides:

A corporation or association may appear and present evidence by an officer or employee. However, only licensed attorneys shall represent a party before the board or a presiding officer in any matter involving the exercise of legal skill or knowledge, except with the consent of the board or presiding officer. All persons appearing in proceedings before the board or a presiding officer shall conform to the standard of ethical conduct required of attorneys before the courts of Iowa.

*Id.* at r. 199—7.4(8)(b).

CEDI’s petition to intervene was submitted by its executive director, who does not appear to be an attorney. Therefore, pursuant to rule 7.4(8)(b), in the event the executive director wishes to participate in this docket beyond the presentation of evidence, the executive director may request consent to represent CEDI.

### **APPOINTING PRESIDING OFFICER**

Pursuant to 199 Iowa Administrative Code rule 7.3, the Board is designating Diana Machir to serve as presiding officer to this docket and exercise the authority described in rule 7.3.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. A public hearing for the presentation of evidence and the cross-examination of witnesses shall commence at 9 a.m. Wednesday, October 25, 2023, in

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the Utilities Board's Hearing Room, located at 1375 E. Court Ave., Des Moines, Iowa. Persons with disabilities who will require assistive service or devices to observe or participate in the hearing should contact the Utilities Board Customer Service staff at (515) 725-7300 at least five business days in advance of the hearing to request arrangements.

2. A comprehensive procedural schedule for this docket is attached to this order and identified as Attachment A and incorporated in this order by reference.

3. The June 2, 2023 petition to intervene filed by the Clean Energy Districts of Iowa is granted.

4. Diana Machir is designated as presiding officer in Docket No. EEP-2022-0225 to exercise the authority provided in 199 Iowa Administrative Code rule 7.3.

**UTILITIES BOARD**

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**Josh Byrnes** Date: 2023.06.29  
14:24:33 -05'00'

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ATTEST:

**Keetah Horras** 2023.06.29  
15:39:25 -05'00'

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**Sarah Martz** Date: 2023.06.29  
14:25:57 -05'00'

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Dated at Des Moines, Iowa, this 29th day of June, 2023.

**ATTACHMENT A**

| EEP-2022-0225 Procedural Schedule           |                       |
|---|-----------------------|
| <b>Testimony/Pre-Hearing</b>                |                       |
| OCA & Intervenor Direct Testimony Due       | 7/28/2023             |
| OCA & Intervenor Rebuttal to Each Other Due | 8/18/2023             |
| Black Hills Reply Testimony Due             | 9/8/2023              |
| OCA & Intervenor Surrebuttal Testimony Due  | 9/22/2023             |
| Joint Statement of the Issues Due           | 10/6/2023             |
| Prehearing Briefs (optional) Due            | 10/6/2023             |
| Settlement Deadline                         | 10/18/2023            |
| <b>Hearing/Post-Hearing</b>                 |                       |
| Hearing                                     | 10/25/2023            |
| Post-Hearing Initial Briefs Due             | Determined at Hearing |
| Post-Hearing Reply Briefs Due               | Determined at Hearing |