

total annual expense for all broker-dealers of \$440,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director, Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 13, 2005.

**Jonathan G. Katz,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-28029]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

September 14, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 6, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of

facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 6, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **Black Hills Corporation, et al. (70-10237)**

Black Hills Corporation ("Black Hills"), a registered public-utility holding company, Black Hills Power, Inc. ("Black Hills Power"), an electric-utility subsidiary of Black Hills, both located at 625 Ninth Street, Rapid City, SD 57701, and Cheyenne Light, Fuel and Power Company, also an electric-utility subsidiary of Black Hills, located at 108 West 18th, Cheyenne, WY 82001, Black Hills Energy, Inc. ("Black Hills Energy"), a nonutility subsidiary of Black Hills, and all of Black Hills other subsidiaries (collectively, "Subsidiaries"), located at 625 Ninth Street, Rapid City, SD 57701 (collectively, "Applicants"), have filed with the Commission a post-effective amendment to their previously filed application-declaration ("Application") under sections 6(a), 7, 9(a), 10, 11, 12(b) and (c), 13(b), 32, 33 and 34 of the Act and rules 42, 43, 45, 52, 53, 54, 58 and 88 through 92.

Black Hills requests certain extensions of time.

#### **I. Background**

Black Hills is an integrated public-utility holding company.<sup>1</sup> On December 28, 2004, the Commission authorized Black Hills and its Subsidiaries to engage in various financing and other transactions ("Financing Order").<sup>2</sup> In

<sup>1</sup> Black Hills is engaged in two lines of business: (1) The generation, transmission, distribution and sale of electricity to retail and wholesale customers; and (2) through Black Hills Energy and its subsidiaries, the development, ownership and operation of exempt wholesale generators, as defined in section 32 of the Act, qualifying facilities as defined in the Public Utility Regulatory Policies Act of 1978, as amended, and the production, transportation and marketing of natural gas, oil, coal and other energy commodities, power marketing and other energy-related activities. Applicants previously engaged in certain exempt telecommunications activities and these businesses have recently been sold.

<sup>2</sup> *Black Hills Corporation, et al.*, Holding Company Act Release No. 27931. Black Hills registered as a public-utility holding company under the Act earlier this year, in 2005. By the Financing Order, Black Hills, then a public-utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2, Black Hills Power, its subsidiary electric-utility company, and all other direct and indirect subsidiaries, were authorized to engage in financing and investment activities, intrasystem services and other related activities and transactions, through December 31, 2007, following Black Hills' registration as a public-

connection with the Financing Order, Black Hills committed to establish a limited liability subsidiary, Black Hills Service Company, LLC ("Black Hills Service"), to provide centralized services (such as accounting, financial, human resources, information technology and legal services) to the companies in the Black Hills system<sup>3</sup> and to submit certain filings to the Commission and to implement certain processes and methodologies by December 28, 2005.<sup>4</sup>

The Act was repealed on August 8, 2005, and the Public Utility Holding Company Act of 2005 ("PUHCA 2005") was enacted on that date by the Energy Policy Act of 2005 ("Energy Policy Act 2005"). The repeal of the Act ends the Commission's authority over Black Hills and the Black Hills system under this statute as of February 8, 2006 and subjects Black Hills and the Black Hills system to new, but in certain respects similar, regulation by the Federal Energy Regulatory Commission ("FERC") under PUHCA 2005.

FERC is required to issue certain PUHCA 2005 regulations by December 8, 2005. Black Hills states that the new FERC regulations may affect some of the processes and methodologies relating to allocation of costs, among other things, that were addressed in the Financing Order.

utility holding company. A recent, related notice was issued on July 26, 2005, addressing certain administrative money pool matters. See *Black Hills Corporation, et al.*, Holding Co. Act Release No. 28003. No hearing has been requested.

<sup>3</sup> Black Hills states that it explained, in its application for the Financing Order, that the Black Hills system companies will engage in a variety of affiliate transactions for goods, services and construction, in accordance with rules 87, 88, 90 and 91, unless otherwise authorized by Commission order or rule. Black Hills states it also committed to file accounting and cost allocation procedures with the Commission by October 1, 2005; to form Black Hills Service within sixty days of issuance of the Financing Order, but sought authority to delay (for not longer than twelve months) the full implementation of Black Hills Service and the required accounting systems and cost allocation methodologies; and finally, to complete conversion of non-exempt market-based rate affiliate transactions to cost-based transactions (not later than twelve months following issuance of the Financing Order). In the Financing Order, the Commission acknowledged Black Hills' plans for these procedures, Black Hills Service and the affiliate arrangements.

<sup>4</sup> Black Hills states that it established Black Hills Service and has taken significant steps to implement it. Black Hills states further that, in this implementation, it has already expended significant resources in extensive planning and organizational initiatives to identify employees and functions to be transferred to Black Hills Service, defining extensive new organizational, management and personnel structures to be put in place at Black Hills Service and associate companies and formulating required changes to human resources systems and pension and benefit plans.

## II. Requested Authority

Black Hills, therefore, requests the Commission to permit it:

1. To extend Black Hills' time for certain filings with the Commission, from October 1, 2005, through February 8, 2006, the effective date of the Act's repeal (describing accounting systems and cost allocation methodologies);

2. To extend the time for Black Hills' full implementation of Black Hills Service, from December 28, 2005, through February 8, 2006, the effective date of the Act's repeal (accounting systems and cost allocation methodologies); and

3. To extend the time for Black Hills' conversions of non-exempt market-based rate affiliate transactions to cost-based transactions from December 28, 2005, through February 8, 2006, the effective date of the Act's repeal.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 52444/September 15, 2005 and 27067/September 15, 2005]

### Securities Exchange Act of 1934 and Investment Company Act of 1940; Order Under Section 17a and Section 36 of the Securities Exchange Act of 1934 Granting Exemptions From Specified Provisions of the Exchange Act and Certain Rules Thereunder; Order Under Section 6(c) and Section 38(a) of the Investment Company Act of 1940 Granting Exemptions From Specified Provisions of the Company Act and Certain Rules Thereunder

Section 36 of the Securities Exchange Act of 1934 (the "Exchange Act") authorizes the Securities and Exchange Commission (the "Commission"), by rule, regulation, or order, to exempt, either conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Section 17A(c)(1) of the Exchange Act provides that the appropriate regulatory agency, by rule or by order, upon its own motion or upon application, may

conditionally or unconditionally exempt any person or security or class of person or securities from any provision of that section or any rule or regulation prescribed under Section 17A, if the appropriate regulatory agency finds that such exemption is in the public interest and consistent with the protection of investors and the purposes of this section, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.<sup>1</sup>

Section 6(c) of the Investment Company Act of 1940 (the "Company Act") provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Company Act, or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Company Act. Section 38(a) of the Company Act provides that the Commission may make, issue, amend and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the powers conferred upon the Commission under the Act.

Hurricane Katrina made landfall along the Gulf Coast on August 29, 2005, causing catastrophic damage to portions of Alabama, Louisiana and Mississippi. The storm and subsequent flooding displaced individuals and businesses and disrupted communications across the Gulf Coast region. We are issuing this Order to address the needs of companies and individuals located within the areas affected by Hurricane Katrina that must comply with the requirements of the federal securities laws.

### I. Filing Requirements for Registrants and Other Persons

The lack of communications, facilities and available staff and professional advisors as a result of Hurricane Katrina could hamper the efforts of public

<sup>1</sup> Section 3(a)(34) defines "appropriate regulatory authority" when used in the context of transfer agents as generally (1) the Comptroller of the Currency, in the case of a national bank or a bank or a subsidiary of such bank; (2) the Board of Governors of the Federal Reserve System or subsidiary thereof, a bank holding company or a subsidiary of a bank holding company; (3) the Federal Deposit Insurance Corporation; and (4) the Commission in the case of all other transfer agents. Section 17A(c)(1) also requires that the Commission not object to the use of exemptive authority in instances where an appropriate regulatory authority other than the Commission is providing exemptive relief.

companies and other persons in the affected areas in their compliance with filing deadlines. At the same time, investors have an interest in the timely availability of required information about these companies and the activities of persons required to file schedules and reports with respect to these companies. While the Commission believes that the relief from filing requirements provided by this Order is both necessary in the public interest and consistent with the protection of investors, we remind public companies and other persons who are the subjects of this Order to continue to evaluate their obligations to make materially accurate and complete disclosures in accordance with the anti-fraud provisions of the federal securities laws.

Accordingly, *it is ordered*, pursuant to Section 36 of the Exchange Act, that a registrant (as defined in Exchange Act Rule 12b-2) subject to the reporting requirements of Exchange Act Section 13(a) or 15(d), and any person required to make any filings with respect to such a registrant, is exempt from any requirement to file or furnish materials with the Commission under Exchange Act Sections 13(a), 13(d), 13(g), 14(a), 14(c), 15(d) and 16(a), Regulations 13A, 13D, 13G, 14A, 14C and 15D, and Rule 16a-3, as applicable, for the period from and including August 29, 2005 to October 14, 2005, where the conditions below are satisfied.

### Conditions

(a) With respect to registrants, the address of the registrant's principal executive offices listed on the cover page of the most recent periodic report filed by the registrant on Form 10-Q, 10-QSB, 10-K, or 10-KSB is within one of the counties or parishes designated as of this date to be within the Presidentially Declared Disaster Areas where Individual Assistance has been authorized by the Federal Emergency Management Agency as a result of Hurricane Katrina (the "Presidential Disaster Areas"), which include the Louisiana parishes of: Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana; the Mississippi counties of: Adams, Amite, Attala, Claiborne, Choctaw, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper,