

**BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING**

IN THE MATTER OF THE APPLICATION OF )  
BLACK HILLS POWER INC. FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY FOR WYGEN III, A 100 MW )  
COAL-FIRED ELECTRIC GENERATION )  
FACILITY TO BE LOCATED IN GILLETTE, )  
WYOMING )

Docket No. 20002-69-EA-07  
Record No. 11549

**PRE-FILED DIRECT TESTIMONY OF**

**Denise Kay Parrish**

**On Behalf of the Office of Consumer Advocate**

**Testimony Filed: March 10, 2008**

**Hearing Begins: March 18, 2008**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Denise Kay Parrish and my business address is 2515 Warren Avenue, Suite  
3 304, Cheyenne, Wyoming 82002.

4

5 **Q. WHAT IS YOUR OCCUPATION?**

6 A. I am currently the Deputy Administrator of the Wyoming Office of Consumer Advocate  
7 (OCA). In this position, I review and provide input into the recommendations made by  
8 the OCA. I review utility applications filed with the Wyoming Public Service  
9 Commission (Commission) and provide advice to the Administrator regarding the  
10 involvement the OCA should have, if any, in the various cases. I review applications,  
11 perform analyses and provide recommendations to the Commission relative to various  
12 utility matters, including revenue requirements, tariff language, competitive issues, rules  
13 and regulations, and other items. I write and issue press releases, perform special studies,  
14 as well as provide information and research to customers, the legislature, the OCA  
15 Administrator, and others. I do other assignments and tasks, as needed and as assigned  
16 by the OCA Administrator.

17

18 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?**

19 A. In 1976, I graduated from Michigan State University with a Bachelor's degree in  
20 Accounting. I have spent more than thirty years as a regulator of public utilities, having  
21 been on the staff of four state utility regulatory commissions and two consumer advocate  
22 entities. More than sixteen of these years have been spent at the Wyoming Public Service  
23 Commission. I have taken classes related to various aspects of public utility regulation,  
24 including income taxes, regulatory accounting, capital recovery, cost-of-service, rate  
25 design, revenue requirements, separations and allocations, and other specialized topics. I  
26 have taught classes on issues of accounting standards, general ratemaking principles,  
27 affiliate transactions, regulatory accounting, financial reporting, and other specialized  
28 topics to regulatory professionals.

29

30 Since 2002, I have been an instructor at the Michigan State University Institute of Public  
31 Utilities (CAMP NARUC). I have also worked with the Nigerian Communications

1 Commission on regulatory accounting and reporting matters and have done work for the  
2 International Telecommunications Union as a seminar leader. Furthermore, I have  
3 participated as a presenter at several meetings of the Tariff and Pricing Committee of the  
4 Energy Regulators Regional Association (ERRA). Finally, I was a presenter at, and  
5 participant in a workshop sponsored by the Energy Group of the Institute of International  
6 Education (IIE) regarding the development of an Electricity Distribution Indicator  
7 Toolkit.

8  
9 I am the past chair and a current member of the National Association of Regulatory  
10 Utility Commissioners' Staff Subcommittee on Accounting and Finance. I am a member  
11 of the NARUC Staff Subcommittee on International Relations. I am currently a member  
12 of the National Association of State Utility Consumer Advocates' (NASUCA) Tax and  
13 Accounting Committee. Finally, I am a member of the staff of the Federal-State Joint  
14 Board on Universal Service.

15  
16 **Q. DO YOU HAVE EXPERIENCE AS AN EXPERT WITNESS?**

17 A. Yes. I have testified more than one hundred twenty-five times as an expert witness. I  
18 have testified before the Michigan Public Service Commission, the Colorado Public  
19 Utilities Commission, the Colorado District Court, the Arizona Corporations  
20 Commission, the Wyoming Public Service Commission, the Wyoming Legislature Joint  
21 Corporations Committee, the Federal Energy Regulatory Commission, and the Federal-  
22 State Joint Board on Universal Service. I have testified in telecommunications, water,  
23 wastewater, electric, and natural gas cases. The subjects upon which I have testified  
24 include revenue requirements, rate design, cost-of-capital, nuclear decommissioning,  
25 accounting deferrals, adjustment mechanisms, income taxes, capital recovery, universal  
26 service funding, and other specialized topics.

27  
28 **Q. WHO DO YOU REPRESENT IN THIS PROCEEDING?**

29 A. As a member of the Office of Consumer Advocate, I represent the interests of Wyoming  
30 citizens and all classes of utility customers in this public utility matter, as required by

1 W.S. § 37-2-401. It is neither my intent nor my charge to represent the position of any  
2 individual, group, municipality, or corporation.

3  
4 **Q. WHAT COURSE OF ACTION IS AVAILABLE TO INDIVIDUAL CONSUMERS**  
5 **OR OTHER INTERESTED PARTIES IF THEY WISH TO PURSUE ISSUES**  
6 **NOT ADDRESSED BY THE OFFICE OF CONSUMER ADVOCATE, OR TAKE**  
7 **A DIFFERENT POSITION FROM THE OFFICE OF CONSUMER ADVOCATE?**

8 A. Consumers and other parties may intervene in the proceedings and raise additional issues  
9 not addressed by the Office of Consumer Advocate, and may take different positions than  
10 those presented by the OCA. Consumers may also present written or oral comments at  
11 the hearing, which then become part of the record in the case and are available to the  
12 Commission as it makes its decision on any particular proposal or suggested change. The  
13 OCA encourages the participation of the public and all interested parties in cases before  
14 the Commission.

15  
16 **Q. ARE YOU SPONSORING ANY EXHIBITS OR SCHEDULES AS PART OF**  
17 **YOUR DIRECT PREFILED TESTIMONY IN THIS PROCEEDING?**

18 A. No, I am not. All of my prefiled direct testimony is contained within this written  
19 document.

20  
21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my testimony is to present the OCA's concerns and comments relative to  
23 Black Hills Power, Inc.'s application for a certificate of public convenience and necessity  
24 for Wygen III.

25  
26 **Q. WHAT IS THE GUIDING STATUTE RELATIVE TO THE ISSUANCE OF A**  
27 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A NEW**  
28 **POWER PLANT, SUCH AS WYGEN III?**

29 A. W.S. § 37-2-205 is the statute that provides the utility and Commission direction about  
30 the issuance of a certificate of public convenience and necessity. The issues raised by the  
31 OCA in this proceeding will focus on the first portion of the statute:

1 (a) No public utility shall begin construction of a line, plant or system,  
2 or of any extension of a line, plant or system without having first obtained  
3 from the commission a certificate that the present or future public  
4 convenience and necessity *require or will require such construction...*  
5 [Emphasis added]  
6

7 **Q. DO THE COMMISSION'S RULES ALSO PROVIDE SOME DIRECTION IN**  
8 **REGARD TO APPLICATONS FOR CERTIFICATES OF PUBLIC**  
9 **CONVENIENCE AND NECESSITY PARTICULARLY FOR A NEW POWER**  
10 **PLANT?**

11 A. Yes. Section 204 of the Commission' Procedural Rules and Special Regulations provides  
12 instructions as to what shall be included in certain applications for certificates of public  
13 convenience and necessity, while Section 205 describes additional information to be  
14 provided when the requested certificate application involves construction of a major  
15 utility facility.<sup>1</sup> Section 205(d) requires that the application include:

16 A statement setting forth *the need for the project* in meeting present and  
17 future demands for service, in Wyoming or other states, and the proposed  
18 sale of the utility commodity or service which the construction of this  
19 facility will make available. [Emphasis added.]  
20

21 **Q. WHAT IS THE OCA'S CONCERN IN THIS PROCEEDING?**

22 A. The OCA has chosen to intervene in this case for the primary purpose of discussing its  
23 view of *need* in the context of a certificate versus the view that Black Hills appears to  
24 have taken. The OCA's view of *need* appears to be much broader and more  
25 comprehensive than is the view taken by Black Hills.  
26

27 **Q. PLEASE PROVIDE A MORE DETAILED EXPLANATION OF YOUR**  
28 **CONCERN.**

29 A. As noted in the statutory citation above, the applicant has the responsibility to show that  
30 any plant it wishes to construct is required and necessary to meet its service obligations.  
31 This is reiterated in the above citation from the Commission's rules with the requirement  
32 that the need for the particular project is to be shown. The OCA's reading of this is that

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<sup>1</sup> Wygen III meets the definition of a major utility facility as found in Section 202(c)(i) of the Commission's Procedural Rules and Special Regulations.

1 the showing must go beyond the simple need for any project or a showing that there is a  
2 shortage of supply resources compared to the anticipated load. Instead, the showing must  
3 be that the particular power plant under consideration is needed.  
4

5 Let me further explain the distinction I see between the showing of a general power  
6 supply need and the need for a particular project. In the first instance, a utility could  
7 show that its combined demand side and supply side resources are not adequate to meet  
8 its expected demand, and thus, new resources will be required. This is the type of  
9 showing that is commonly made in an integrated resource plan (IRP). The IRP may then  
10 go on to indicate some surrogate type resources (e.g., a combined cycle unit) and  
11 generalized costs (e.g., \$1,200 per kW and \$0.11 per kWh) to provide a placeholder for  
12 more specific resource decisions.  
13

14 In the second instance, the utility should show not only the resource it has decided to  
15 pursue, but why that particular resource option is appropriate versus some alternative  
16 resource option (e.g., self building project x is cheaper than having a third party build  
17 project x or project y). This interpretation requires not only a description of the project  
18 but an explanation of why this project is the best project to meet the overall need for  
19 some resource.  
20

21 If only the overall need is supported without a showing that any one particular resource is  
22 the appropriate resource to pursue, the meaningfulness of the certificate process is  
23 diluted. The result of the certificate process should be a determination that it is prudent  
24 and reasonable to pursue a particular resource(s) given the facts and circumstances  
25 known at the time. Questions about the prudence of the construction costs and post-  
26 construction operational issues are appropriately rate case issues. But, if the question of  
27 whether the right resource has been built is held for determination in the rate case, it is  
28 too late. This could place huge risks on investors as no money may be recovered if it is  
29 decided after the fact that a wrong resource was built. It could also place service to  
30 customers at risk, if the resource is disallowed from rates and the utility then disposes of  
31 the resource or moves it to non-regulated operations. The time to examine whether the

1 appropriate resource is being built is in the certificate case, while the time to determine  
2 whether the costs of the project are reasonable for inclusion in the customers' prices is in  
3 the rate case.

4  
5 **Q. WHAT APPROACH DID BLACK HILLS TAKE TO ITS SHOWING OF NEED?**

6 A. Black Hills addresses the issue of need beginning at page 32 of its application in this  
7 case. Table X-2 on page 34 of the Black Hill's application shows that Black Hills will  
8 have a resource deficit in 2008 and 2009 that will continue into 2010 without new power  
9 supply resources – resources that Black Hills assumes will come from Wygen III in this  
10 table. Thus, there is some showing of need for new supply side or demand side resources  
11 for Black Hills in this case.

12  
13 As an aside, the OCA notes that this is the only table or chart of which we are aware in  
14 this proceeding that actually shows the needs of Black Hills on a stand alone basis. Most  
15 of the other information in the application (such as Table X-1 on page 34) and in the  
16 accompanying IRP show the combined needs of Black Hills and Cheyenne Light. Since  
17 these are purported to be two different utilities with different service territories and  
18 different sets of owned resources, it is difficult to understand the reason that the  
19 operations of these two utilities were combined for the planning that purports to show the  
20 need for Black Hills to construct and own Wygen III. Combining the loads and resources  
21 of two related but separate utilities has the potential to confuse the data and conclusions  
22 necessary to support the conclusion that Black Hills has a need for Wygen III on a stand  
23 alone basis. This concern of combining the two utilities in the IRP arises with more  
24 specificity later in my testimony.

25  
26 **Q. IS IT YOUR CONCLUSION THAT BLACK HILLS HAS REASONABLY**  
27 **SUPPORTED ITS CONCLUSION THAT ITS EXISTING SUPPLY SIDE AND**  
28 **DEMAND SIDE RESOURCES WILL BE INADEQUATE TO MEET THE**  
29 **GROWING NEEDS OF ITS COMBINED WYOMING, SOUTH DAKOTA, AND**  
30 **MONTANA SERVICE TERRITORY AS WELL AS ITS WHOLESALE POWER**  
31 **CONTRACTS?**

1 A. Yes.

2

3 **Q. HAS BLACK HILLS ALSO SHOWN THAT WYGEN III IS THE LEAST**  
4 **REASONABLY COST RESOURCE TO MEET THE GROWING DEMAND?**

5 A. No, not completely. However, it is not clear from the Wyoming statutes or the  
6 Commission's rules that Black Hills is required to show that Wygen III is the least cost,  
7 least risk, reasonably available resource. While the OCA would prefer a clearer standard  
8 that indicates that all reasonably available alternatives should be considered when  
9 looking at the need for any particular resource to be constructed, the current rules are  
10 somewhat ambiguous on that point.

11

12 **Q. WHAT IS MISSING FROM THE BLACK HILLS' ANALYSIS OF**  
13 **REASONABLE ALTERNATIVES?**

14 A. The primary alternatives of Black Hills' focus on self-build, self-owned supply side  
15 options. What is missing are the supply options of purchasing additional long-term  
16 power from others<sup>2</sup>, buying a generating plant from others under a turn-key arrangement,  
17 or entering into a shared arrangement with others for a larger generating unit.

18

19 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED THESE MISSING**  
20 **ALTERNATIVES RELATIVE TO RESOURCE PLANNING FOR ONE**  
21 **SPECIFIC UTILITY?**

22 A. Yes. In its February 28, 2004 Final Order in Docket No. 20003-EA-02-67 (Application  
23 of Cheyenne Light, Fuel and Power Company to File Their December 2002 Power  
24 Resource Plan) the Commission provided some direction as to the content of Cheyenne  
25 Light's future resource plans. Paragraphs 56 through 58 of the Order state:

26 We do not believe that it would be useful for us to direct in great detail the  
27 content of future plans. We do, however, expect future plans to show  
28 consideration of all supply alternatives, including such options as all-  
29 requirements and other contracts whether managed by Cheyenne Light or  
30 by an affiliate, demand side management, construction of or participation  
31 in generation resources, the development of resource portfolios

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<sup>2</sup> The plan does include purchasing an additional 50 MW of firm power only during July and August during peak hours.

1 (administered by it or others), and competitive bidding processes. The  
2 Plan should discuss the costs and benefits of each alternative as Cheyenne  
3 Light sees them. Closely related subjects such as the need for ancillary  
4 services should be included.  
5

6 If it would potentially be beneficial for Cheyenne Light to employ special  
7 contracts with larger customers to shift demands from on-peak to off-peak  
8 times or for other benefits described, *supra*, Cheyenne Light should  
9 include in its future plans a discussion of the benefits of load shifting to  
10 reduce system peaks and, therefore, costs. Cheyenne Light should, as part  
11 of its future planning processes, engage in discussions with those of its  
12 large customers which express an interest in special contracts. The results  
13 should be set forth in its future resource plans.  
14

15 Below, we discuss the subject of competitive bidding as it relates to  
16 Cheyenne Light's future resource acquisition plans. We will not impose a  
17 retroactive requirement in this case regarding competitive bidding, but will  
18 only require that the subject be treated by Cheyenne Light in ensuring  
19 resource plans. Because the subject is to be included in future plans, that  
20 will allow it to be examined and thoroughly tested as those plans mature.  
21

22 It is important to note that both Black Hills Wyoming, Inc. and Black Hills Generation,  
23 Inc. were active intervenors in the case, and thus should have been aware of the content  
24 of this order. Mr. David Rhodes was one of the two witnesses in the case for Black Hills  
25 and is also a witness in this case. It was also shortly after the issuance of this order that  
26 Black Hills made an offer to purchase Cheyenne Light.  
27

28 The above directions were to apply to future Cheyenne Light's resource plans. While the  
29 application in this case is for a Black Hills' owned resource, the primary basis for support  
30 for selecting that resource is one Integrated Resource Plan for both Cheyenne Light, Fuel  
31 and Power and Black Hills Power. Thus, one could easily conclude that all of the above  
32 listed power supply options should be included in the document provided with the  
33 application. Yet, the IRP fails, to the best of my knowledge, to discuss competitive  
34 bidding. It is not only a failure of the content of the document, but no competitive  
35 bidding was done by Black Hills' prior to selecting Wygen III as its next major supply  
36 resource. It also appears to lack any discussion on load shifting or other similar  
37 arrangements with large customers.  
38

1 **Q. IS THE TREATMENT OF DEMAND SIDE MANAGEMENT IN THE**  
2 **PLANNING SCENARIO PROCESS ALSO OF CONCERN?**

3 A. Yes. Demand side management is treated as an input to the determination of future load,  
4 rather than being tested on an equal economic basis with supply side options. This is  
5 stated on page vii of the Integrated Resource Plan,

6 The penetration of the DSM programs is assumed to be reflected in the  
7 historical data used to derive the load forecasts and thus is propagated into  
8 the future at the same level of penetration as the percentage of total load.  
9

10 So, no new levels of demand side management are assumed and it is treated differently  
11 than supply side options, in spite of the language in the Commission's direction in its  
12 June 2, 1993 Order Approving Stipulation and Agreement in Docket No. 20002-EA-92-  
13 27 (Black Hills' Application for a Certificate for Neil Simpson Unit #2). Paragraphs 53  
14 and 55 of that order state:

15 The integrated resource planning process should take into account  
16 necessary features for system operation, such as diversity, reliability,  
17 dispatchability and other factors of risk and the ability to verify energy  
18 savings achieved through energy conservation as well as efficiency and  
19 the projected durability of such savings measured over time. **It should**  
20 **treat demand and supply resources on a consistent and integrated**  
21 **basis.** [Emphasis added.]  
22 ...  
23

24 The RCG/Hagler, Bailly consultants completed a study that determined  
25 the cost effective demand-side resources available in Black Hills's service  
26 area. Their report estimated how much demand-side management is  
27 technically feasible. Further study will then have to be done to determine  
28 what demand-side management is cost effective. The level of  
29 conservation that can be achieved cost effectively will undoubtedly be  
30 lower than the level that is technically feasible, but Black Hills'  
31 consultants have represented to the Consumer Representative Staff that  
32 successful utilities have achieved an average of 10% peak reduction  
33 through conservation.  
34

35 **Q. IS BLACK HILLS' INTEGRATED RESOURCE PLAN SEPARABLE AND**  
36 **DISTINCT FROM THE CERTIFICATE APPLICATION THAT IS THE**  
37 **SUBJECT OF THIS PROCEEDING?**

38 A. No. The IRP is discussed and referenced extensively on pages 32 through 35 in the  
39 discussion of *need* in the current certificate application itself. It was provided with the

1 Application as an integral part of the support. Additionally, Ms. Tietjen's testimony is  
2 primarily about the IRP and she attaches it as an exhibit to her testimony. The IRP must  
3 be considered part of the key evidence in this proceeding. This concept of utilizing the  
4 IRP in the certificate case is supported by additional statements from the Commission's  
5 June 2, 1993 Neil Simpson Unit #2 certificate order, at paragraph 55:

6 Integrated resource planning is a tool to be used in the planning and  
7 selection process for new resources, such as Neil Simpson Unit #2,  
8 demand-side management, and renewable resources. The concepts of  
9 integrated resource planning are highly relevant in this case.  
10

11 **Q. WHAT CONCLUSION DO YOU REACH ABOUT GRANTING A**  
12 **CERTIFICATE TO BLACK HILLS FOR THE CONSTRUCTION OF WYGEN**  
13 **III?**

14 A. Unfortunately, I am unable to reach a conclusion given the ambiguity of the statute, rules,  
15 and the multi-utility Integrated Resource Plan in this case. While Black Hills has put a  
16 fair amount of effort into studying various self-owned, self-built, owned-generation  
17 alternatives, it is not clear that it has looked at all of the other reasonably available  
18 alternatives (such as competitive bidding).  
19

20 However, I am aware of the fact that severe shortages of supply are predicted for the  
21 western United States within the next few years. I also acknowledge that I have generally  
22 been an advocate of building new coal fired power plants in the region. However, in  
23 those cases where I advocate self building – particularly in the case of PacifiCorp – fully  
24 developed Integrated Resource Plans have been developed and the utility has engaged in  
25 competitive bidding. Thus, there is a great deal of evidence as to the lowest cost, lowest  
26 risk options that fit within PacifiCorp's overall portfolio. I can not say that the same in  
27 the case of Black Hills.  
28

29 I leave to the discretion of the Commission as to whether it believes that Black Hills  
30 has complied with its prior orders and directions and whether both the letter and the spirit  
31 of the certificate statutes and rules have been met.  
32

1 I am not prepared to provide any conclusion about whether the Commission should grant  
2 Black Hills the requested certificate of public convenience and necessity for Wygen III.  
3 Instead, I ask that the Commission consider the concerns that have been raised by the  
4 OCA in making its final determination.

5

6 **Q. DOES THAT CONCLUDE YOUR PREFILED DIRECT TESTIMONY IN THIS**  
7 **PROCEEDING?**

8 A. Yes, it does. However, I look forward to the opportunity to further discuss these  
9 concerns with the Commission and its staff at the hearing on this matter and to answer  
10 any questions they may have.