

BEFORE THE UTILITY DIVISION

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

IN THE MATTER of the application of)
BLACK HILLS POWER & LIGHT for an order) DOCKET NO. 6380
authorizing the issuance of 10,000)
shares of its authorized and unissued) DEFAULT ORDER NO. 4246
common stock, par value \$1 per share.)

On January 26, 1976, BLACK HILLS POWER & LIGHT COMPANY, hereinafter referred to as Applicant, a corporation organized and existing under and by virtue of the laws of the State of South Dakota, and qualified to transact business in Montana, filed with the Montana Public Service Commission its verified application, pursuant to Sections 70-117.1 to 70-117.6, inclusive, RCM 1947, requesting an order authorizing Applicant to issue 10,000 shares of its authorized and unissued common stock, par value \$1 per share.

Applicant proposes to offer the aforesaid Common Stock only to employees of Applicant and of its wholly-owned subsidiary, Wyodak, Resources Development Corp., pursuant to Applicant's Employee Stock Purchase Plan. The shares of Common Stock, upon being issued, will be entitled to full voting privileges and to dividends as and when declared by the Board of Directors. The issuance and sale of the Common Stock will not be underwritten and no underwriter's or finder's fee will be paid to any person in connection with such issuance and sale.

The application is supported by exhibits and data in accordance with the rules and regulations of the Commission governing the authorization of issuance of securities by electric and gas utility companies operating within Montana. For detailed information with respect to the general character of Applicant's business and the territories served by it, reference is made to its annual reports on file with the Commission.

At a regular open session of the Montana Public Service Commission, held in its office at 1227 11th Avenue, Helena, Montana, on March 3, 1976, there came before the Commission for final action the matters and things in Docket No. 6380, and the Commission, having fully considered the application and all the data and records pertaining thereto on file with the Commission

and being fully advised in the premises, makes the following:

FINDINGS OF FACT

1. Applicant, Black Hills Power & Light Company, is a corporation organized and existing under and by virtue of the laws of the State of South Dakota and is qualified to transact business in the State of Montana.
2. Applicant is operating as a public utility as defined in Section 70-103, RCM 1947, and as such is engaged in furnishing utility service in Montana.
3. The Commission has jurisdiction over the subject matter of said application under Sections 70-117.1 through 70-117.6, RCM 1947.
4. Public notice of the filing of application and opportunity for the public hearing was given on February 13, 1976, in the Ekalaka Eagle, Ekalaka, Montana; and no protests or requests for a formal hearing were received by February 25, 1976.
5. Applicant's Board of Directors, at a meeting of the Board on February 3, 1975, recommended to the stockholders that they authorize the Board of Directors to reserve 10,000 shares of Common Stock of the Company heretofore authorized but at present unissued, for issuance and sale to the employees of the Company and of any subsidiary through the agency of the Employee Stock Purchase Plan of the Company, under the rules governing such Plan, without first being offered for subscription to the stockholders of the Company.
6. Applicant's stockholders, at an annual meeting of the stockholders, on April 22, 1975, did authorize the Board of Directors to reserve 10,000 shares of Common Stock of the Company heretofore authorized but at present unissued, for issuance and sale to the employees of the Company and of any subsidiary through the agency of the Employee Stock Purchase Plan of the Company, under the rules governing such Plan, without first being offered for subscription to the stockholders of the Company.
7. Applicant's Board of Directors, at a meeting of the Board, on January 22, 1976, did adopt that 10,000 shares of Common Stock, \$1 par value per share, of the Company heretofore authorized but at present unissued, be and they hereby are, reserved and set aside for respect to

retirement funds for the Preferred Stock and the Common Stock Equity test, all as set forth in Article Fourth of the Articles of Incorporation, as amended. Dividends on Common Stock are limited by certain earnings tests as set forth in Section 9.15 of Article 9 of the Mortgage Indenture, as amended, providing for the Bonds.

9. The holders of the Common Stock have no preemptive rights to subscribe to any issue of stock or other securities of any class of the Applicant, except (1) to subscribe to any issue of Common Stock which is sold or offered for cash, and (2) to subscribe to any securities of the Applicant convertible into or exchangeable for Common Stock if such securities are sold or offered for cash, other than Convertible Preferred Stock sold to or through investment bankers for public offering.

10. The issuance and sale of the Additional Common Stock will not be underwritten and no underwriters' or finders' fee will be paid to any person in connection with such issuance and sale.

CONCLUSIONS OF LAW

The securities transaction proposed by Applicant, as hereinafter authorized, will be for a lawful purpose and is consistent with the public interest; the same is necessary, appropriate and consistent with the proper performance by Applicant of service as a public utility; and the aggregate amount of securities outstanding and proposed to be outstanding will not exceed the fair value of the properties and business of Applicant.

ORDER

IT IS ORDERED by the Commission:

1. The application of Black Hills Power & Light Company for authority to issue 10,000 shares of its authorized and unissued common stock, par value \$1 per share, is approved.

NOTE: Section 70-117.6, RCM 1947, provides that neither the issuance of securities by Applicant pursuant to the provisions of this order, nor any other act or deed done or performed in connection therewith, shall be construed to obligate the State of Montana to pay or guarantee in any manner whatsoever any security authorized, issued, assumed or guaranteed hereunder.

The approval of this stock issuance shall not be construed as precedent to prejudice any future action of this Commission.

Issuance of this Order does not mean acceptance of the Applicant's exhibits or other material accompanying the application for any purpose other than the issuance of this Order.

DONE on March 3rd, 1976, by a 4 - 0 vote.

BY ORDER OF THE PUBLIC SERVICE COMMISSION:

GORDON E. BOLLINGER, Chairman

P.J. GILFEATHER, Commissioner

JAMES R. SHEA, Commissioner

GEORGE TURMAN, Commissioner

ATTEST:

GAIL E. BEHAN
Secretary

(Seal)

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing within thirty (30) days from the service of this Order, a petition for review pursuant to Section 82-4216, RCM 1947.