

**ELECTRICAL COOPERATIVE REVENUE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the City of Rapid City (the "City") and West River Electric Cooperative ("West River") and Black Hills Cooperative Electric ("Black Hills").

WHEREAS, pursuant to SDCL 49-34A-45, West River and Black Hills' are required to obtain the City's agreement to reduce the gross revenue receipts tax to One Percent (1%) from the statutory amount of Two Percent (2%);

WHEREAS, the City does not own a Municipal Electrical System;

WHEREAS, the Black Hills serves less than a majority of customers in the City;

WHEREAS, West River serves less than a majority of customers in the City;

WHEREAS, the City is willing to accept less than the statutory amount of Two Percent (2%) of the gross revenue receipts of Black Hills and West River upon the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants herein, the receipt and sufficiency of which are hereby acknowledged, the parties, wishing to be bound, hereby agree as follows:

- 1) Black Hills and West River shall each pay to the City One Percent (1%) of the Gross Receipts collect by the Cooperatives to the City as payment under SDCL 49-34A-45.
- 2) Said agreement to be effective for the Calendar Year 2007 and renewable each year thereafter by written agreement of the parties before May 1<sup>st</sup> of each year.
- 3) This contract shall inure to the benefit of, and be binding upon, the respective parties hereto, and their successors and assigns.
- 4) This contract shall be effective as of the date first set forth above.
- 5) The parties will save and hold each other harmless, and indemnify each other, from any and all damages resulting from the negligence of the other concerning the matters contemplated herein.
- 6) This contract shall be interpreted in accordance with the laws of the State of South Dakota.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF RAPID CITY

By: \_\_\_\_\_  
Jim Shaw, Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

BLACK HILLS ELECTRIC COOPERATIVE

By: \_\_\_\_\_

WEST RIVER ELECTRIC ASSOCIATION

By: \_\_\_\_\_



**Black Hills  
Electric Cooperative, Inc.**

P.O. Box 792  
Custer, South Dakota 57730-0792

Telephone: (605) 673-4461  
Toll Free: (800) 742-0085  
E-mail: bhec@bhec.coop

July 7, 2006

The Honorable Jim Shaw  
Mayor of Rapid City  
300 6<sup>th</sup> Street  
Rapid City SD 57701

Dear Mayor Shaw:

On July 26, 2006 the Legal and Finance Committee will consider recommending the enactment of the 1% gross receipts tax on revenues received by electric cooperatives serving within the city limits of Rapid City. Mr. Jim Pahl, CEO of West River Electric Association (WREA), has provided information to you and your staff supporting the enactment.

Although Black Hills Electric Cooperative (BHEC) has less service territory than WREA within Rapid City, continued expansion of the city south and west will increase the amount. Portions of Red Rock development off Sheridan Lake Road and the new Black Hills National Forest building on Highway 16 are examples of areas served by BHEC.

Black Hills Electric Cooperative supports the 1% tax. Although the cooperatives would still pay higher taxes to the City of Rapid City than Black Hills Power (BHP), the rate would be more equitable than the present tax. Below is information regarding BHEC's investment, revenue, and taxes paid to the City of Rapid City.

BHEC's investment in distribution facilities within Rapid City	\$190,000
2005 Gross Receipts from Rapid City members	\$118,731
2005 2% Gross Receipts Tax paid to Rapid City	\$2,375
Equivalent centrally assessed tax that would be paid by BHP	\$581
Amount that would be paid by BHEC if 1% tax enacted	\$1,187

The legislature recognized that the large investment per consumer in rural areas required a different taxing method. Centrally assessed property taxes would have put a disproportionate burden on rural consumers. The gross receipts tax was enacted as a fairer alternative. The legislature also wanted to provide an equivalent tax on electric cooperatives that served within cities. Legislation allows cities to set the tax rate between zero and 2% as a means of taxing cooperatives on a comparable level with investor-owned utilities. As you can see from the above information, the gross revenue tax set at 1% would still be more than double the rate paid by BHP.

Please note that the cooperatives also pay all of the other taxes collected by the city including sales and property taxes. In 2005 BHEC paid \$8,659 in property taxes for its property within Rapid City. BHEC consumers paid \$2,552 sales tax on electricity sold within Rapid City.

Although the proposed one percent gross receipts tax is more than double the rate paid by BHP, Black Hills Electric Cooperative supports the enactment. Electric cooperatives wish to continue support for the economic and community development of the Rapid City area and the entire region.



July 7, 2006  
Daniel E. Hutt  
Page 2 of 2

Thank you.

Sincerely,

**BLACK HILLS ELECTRIC COOPERATIVE, INC.**

A handwritten signature in black ink that reads "Daniel E. Hutt". The signature is written in a cursive style with a large, stylized 'D' and 'H'.

Daniel E. Hutt  
General Manager and Executive Vice President

CC: ~~Mr. James Preston~~  
Mr. James Pahl  
BHEC Board of Directors