

BLACK HILLS CORP /SD/
Form 8-K
August 04, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported) **August 4, 2017**

Black Hills Corporation

(Exact name of registrant as specified in its charter)

South Dakota

(State or other jurisdiction of incorporation)

001-31303
(Commission File Number)

625 Ninth Street
Rapid City, South Dakota
(Address of principal executive offices)

46-0458824
(IRS Employer Identification No.)

57709-1400
(Zip Code)

(605) 721-1700

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(Registrants telephone number, indicating area code)

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting materials pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(d))
- Pre-commencement communications pursuant to Rule 13e-e(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the Registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

As previously disclosed, on March 18, 2016, Black Hills Corporation, a South Dakota corporation (the Company), entered into an Equity Distribution Sales Agreement (the Original Sales Agreement) to sell shares of common stock having an aggregate gross sales price of up to \$200 million, from time to time, through an at-the-market equity offering program (the ATM Program) utilizing the Company's shelf Registration Statement on Form S-3 originally filed on August 6, 2014 (Registration No. 333-197895) (the Previous Shelf). Approximately \$120 million shares of common stock were issued and sold under the Original Sales Agreement.

In connection with the scheduled expiration of the Previous Shelf, the Company has filed a new shelf Registration Statement on Form S-3 on August 4, 2017 (Registration No. 333-219705) (the Renewal Shelf) and has entered into an Amended and Restated Equity Distribution Sales Agreement on August 4, 2017 (the Sales Agreement) with MUFG Securities Americas Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Morgan Stanley & Co. LLC (collectively, the Agents), which amends and restates the Original Sales Agreement in its entirety. Among other things, the Sales Agreement provides for the continuation of the ATM Program using the Renewal Shelf and resets the size of the ATM Program to an aggregate gross sales price of up to \$300 million (the ATM Shares).

The sales, if any, of the ATM Shares, may be made in sales deemed to be at-the-market offerings as defined in Rule 415 under the Securities Act of 1933, as amended, including by sales made directly on or through the New York Stock Exchange, or another market for the Company's common stock, sales made to or through a market maker other than on an exchange or otherwise, in negotiated transactions at market prices prevailing at the time of sale or at negotiated prices, or as otherwise agreed with the applicable Agent. The Sales Agreement provides for the Company to submit orders to only one Agent relating to the sale of ATM Shares on any given day. Subject to the terms and conditions of the Sales Agreement, the Agents will use their commercially reasonable efforts to sell on the Company's behalf all of the designated ATM Shares. The Sales Agreement provides for the Company to pay the Agents a commission of up to 2% of the gross sales price per share sold through them as agent under the Sales Agreement. The Company may also sell ATM Shares under the Sales Agreement to one or more of the Agents, as principal for their own accounts, at a price per share agreed upon at the time of sale. Actual sales will depend on a variety of factors to be determined by the Company from time to time. The Company has no obligation to sell any of the ATM Shares under the Sales Agreement, and may at any time suspend solicitation and offers under the Sales Agreement.

The Sales Agreement contains representations and warranties and covenants that are customary for transactions of this type. In addition, the Company has agreed to indemnify the Agents against certain liabilities on customary terms. Some of the Agents and their affiliates have engaged in, and may in the future engage in, investment banking and other commercial dealings, including but not limited to commercial lending services, with the Company, its direct or indirect subsidiaries or its affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

The Company intends to use the net proceeds, if any, from the ATM Program for working capital and general corporate purposes, which may include, among other things, capital expenditures, acquisitions, investments, other business opportunities and repayment or refinancing of outstanding debt.

The ATM Shares will be offered and sold pursuant to the Renewed Shelf, which became effective upon filing with the Securities and Exchange Commission, the related Prospectus dated August 4, 2017 and the Prospectus Supplement, dated August 4, 2017. Copies of the Sales Agreements and an opinion related to the ATM Shares are attached hereto as exhibits and are expressly incorporated by reference herein and into the Registration Statement. The foregoing description of the terms of the Sales Agreement is qualified in its entirety by reference to the actual terms of the Sales Agreement, which is filed as Exhibit 1.1 attached hereto and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

The following exhibits are being filed herewith:

Number	Exhibit
1.1	<u>Amended and Restated Equity Distribution Sales Agreement dated August 4, 2017 among Black Hills Corporation and the several Agents named therein.</u>
5.1	<u>Opinion of Brian G. Iverson, Esq.</u>
23.1	<u>Consent of Brian G. Iverson, Esq. (included in Exhibit 5.1).</u>

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BLACK HILLS CORPORATION

By: */s/ Richard W. Kinzley*
Richard W. Kinzley
Senior Vice President
and Chief Financial Officer

Date: August 4, 2017

Exhibit Index

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