

BEFORE THE PUBLIC SERVICE COMMISSION OF NEBRASKA

**IN THE MATTER OF THE JOINT)
APPLICATION OF SOURCEGAS)
DISTRIBUTION LLC, SOURCEGAS LLC,)
SOURCEGAS HOLDINGS LLC, AND)
BLACK HILLS UTILITY HOLDINGS, INC.) Application No. NG-0084
FOR ALL NECESSARY)
AUTHORIZATIONS AND APPROVALS)
FOR BLACK HILLS UTILITY HOLDINGS,)
INC. TO ACQUIRE SOURCEGAS)
HOLDINGS LLC)**

**DIRECT TESTIMONY OF PATRICIA KENT
CONSTELLATION NEWENERGY – GAS DIVISION, LLC**

1 ***Q1. WHAT IS YOUR NAME AND BUSINESS ADDRESS?***

2 ***A1.*** My name is Patricia Kent. My business address is 2348 SW Topeka Blvd. Suite 203, Topeka, KS
3 66611

4 ***Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?***

5 ***A2.*** I am employed by CNE Gas Holdings, LLC as Supervisor, Mass Markets. Constellation
6 provides competitive wholesale and retail electricity and gas supply, energy management and
7 consulting services nationwide.

8 ***Q3. WHAT IS YOUR EDUCATIONAL BACKGROUND?***

9 ***A3.*** I have an Associate of Arts degree from Highland College, Highland KS.

10 ***Q4. CAN YOU DESCRIBE YOUR EMPLOYMENT HISTORY?***

11 ***A4.*** Yes, I have eleven years in the natural gas industry with experience in competitive natural gas
12 markets. I started with ONEOK Energy Marketing (which was purchased by Constellation in
13 2011) in 2003 as a Manager of Mass Markets managing all aspects of the SourceGas program,

14 initiating the automation of the program, developing a relationship with the utility, developing
15 marketing plans for Nebraska's two (2) SourceGas Choice programs and Wyoming's SourceGas
16 Program and establishing an in house call center for year round sales and customer service. My
17 main business focus has been specifically the Nebraska and Wyoming SourceGas Choice
18 markets.

19 ***Q5. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION WITH***
20 ***CONSTELLATION?***

21 ***A5.*** I am responsible for managing a team of four (4) employees who cover Nebraska, Wyoming,
22 Georgia, Virginia, Kentucky, Indiana, Michigan, Florida, and California. The team has more than
23 ten years' experience in all aspects of the SourceGas Choice markets. The team is the primary
24 interface between Constellation and its residential and small commercial customers participating
25 in choice programs. This group also works closely with utility employees who are responsible for
26 the choice programs. Responsibilities include customer enrollments, answering customer
27 questions, submitting monthly billing files and rate code management.

28 ***Q6. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A REGULATORY AGENCY?***

29 ***A6.*** No.

30 ***Q7. WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF YOUR***
31 ***TESTIMONY?***

32 ***A7.*** In this docket, I have reviewed the Joint Application filed by SourceGas Distribution, LLC,
33 SourceGas Holdings, LLC and Black Hills Utility Holdings, Inc. and the testimony of Michael
34 Noone, Linden Evans, Richard Kinzley and Kyle White on behalf of the joint applicants. In
35 addition I have reviewed the responses to discovery served by Constellation NewEnergy – Gas

36 Division, LLC and the Public Alliance for Community Energy (“ACE”) upon Black Hills and
37 SourceGas.

38 ***Q8. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?***

39 ***A8.*** The primary purpose of my testimony is to state Constellation’s concerns, if the merger is
40 approved, with the level of commitment to the current SourceGas Choice programs in Nebraska
41 and to provide recommendations to the Nebraska Public Service Commission (“Commission”).

42 ***Q9. WHAT ARE YOUR RECOMMENDATIONS FOR THIS PROCEEDING?***

43 ***A9.*** First, Constellation recommends and requests the continuation of the SourceGas Choice Gas
44 program in materially the same format as it currently exists in Nebraska.

45 Second, Constellation would like a meaningful residential Choice program to be implemented in
46 the Black Hills service territory. Ideally it would be modeled after the existing SourceGas
47 program design where consumers can choose a competitive gas supplier and avail themselves of
48 various competitive products.

49 ***Q10. WHAT IS THE EXISTING RELATIONSHIP BETWEEN CONSTELLATION AND***
50 ***SOURCEGAS?***

51 ***A10.*** Constellation is currently one of the retail suppliers to the commercial, residential, and
52 agricultural customers in SourceGas’ Choice Gas programs in Nebraska. See Exhibit A.

53 Currently Constellation holds 23.9% of the total market in the residential/commercial program
54 and 21.9% of the agricultural market.

55 ***Q11. PLEASE DESCRIBE THE SOURCEGAS CHOICE PROGRAMS?***

56 ***A11.*** SourceGas offers two (2) Choice Gas programs in Nebraska, a residential/commercial program
57 and an agricultural program. In the SourceGas Choice Gas agricultural program, customers have
58 a three (3) week window each year to select a competitive natural gas supplier for their

59 agricultural meter(s). During the selection period, supplier pricing is available online, by phone,
60 or by attending a SourceGas sponsored Open House and speaking with the supplier in person.
61 Customers satisfied with their current supplier have the option to rollover at the same pricing
62 option by taking no action. In the SourceGas Choice Gas residential/commercial program
63 customers have a two week window to select a competitive natural gas supplier for their home
64 and/or business. During the selection period pricing is available online or by phone. SourceGas'
65 Choice Gas programs promote competition by giving consumers a choice as to who will supply
66 them with their gas supply and requiring suppliers to compete with one another with innovative
67 products and services. SourceGas has been supportive of competition over the years which had
68 been demonstrated by their earlier plan to expand the Choice Gas program into Colorado.
69 Specifically, prior to the announcement of the proposed acquisition of SourceGas by Black Hills,
70 SourceGas filed an application with the Colorado Public Utilities Commission to expand the
71 Choice Gas program into Colorado. That proceeding is currently suspended at the request of
72 SourceGas. This suspension is obviously targeted at eliminating inquiry in Colorado (which
73 exists in Nebraska) as to which program may be better for the consumers in the state.

74 ***Q12. ARE THERE ANY OPPORTUNITIES FOR CUSTOMERS TO MAKE A SELECTION***
75 ***WITH A SUPPLIER OUTSIDE OF THE SELECTION PERIOD?***

76 ***A12.*** Currently SourceGas allows customers to pre-sign with a supplier by signing a Delegation
77 Agreement, which is provided to each supplier by SourceGas. This option gives the customer
78 flexibility to make their selection outside of the two (2) or three (3) week selection period. In the
79 2015 residential/commercial program Constellation saw over 8% of our customers take
80 advantage of this opportunity.

81 ***Q13. BASED ON CONSTELLATION'S EXPERIENCE, IS THE SOURCEGAS CHOICE GAS***
82 ***PROGRAM PRO-COMPETITION?***

83 **A13.** Yes. Customers in 2015 were allowed to choose from a total of four (4) competitive suppliers in
84 the Nebraska Residential/ Commercial Choice Gas program and between five (5) competitive
85 suppliers in the Agricultural Choice Gas program. Each retailer offers a variety of products and
86 service options that are not available through the utility’s standard bundled tariff rate. SourceGas
87 designates that a residential customer can make a selection for up to two (2) years and a
88 commercial or agricultural customer can make a selection for up to three (3) years. These
89 offerings vary by program but can include a monthly floating index price, a fixed price, a blended
90 price option made up of a monthly floating index price and fixed price, and a guaranteed fixed
91 monthly bill offering. In addition, these product types are all tailored by the individual retailer in
92 order to attract and retain customers. Over time, as the testimony of my colleague Mr. Ed Brolin
93 illustrates, competitive markets motivate retailers to enhance existing offerings, to further develop
94 new products and services and to design solutions that meet the needs of consumers. Without
95 competitive forces at work, it is doubtful that innovative products and unique pricing
96 opportunities would be developed for consumers

97 **Q14. DOES CONSTELLATION OFFER COMMERCIAL CUSTOMERS ANY SERVICES**
98 **OUTSIDE OF THE SELECTION PERIOD?**

99 **A14.** Yes, Constellation offers commercial customers an Option to Fix price product that allows
100 commercial customers to sign up with an index based price option and then Constellation offers
101 the customer up to four (4) opportunities to lock in up to 70% of their historical gas use for the
102 winter months. .

103 **Q15. HOW DOES YOUR CONCERN REGARDING BLACK HILL’S APPARENT LACK OF**
104 **COMMITMENT TO COMPETITIVE MARKETS AFFECT CONSTELLATION?**

105 **A15.** The apparent conflict between operation of both a Choice Gas and a Cost of Service Gas Program
106 has not been addressed. Recent public comments by Black Hills management, the absence of

107 residential choice program in existing Black Hills markets, the suspension of the proceeding to
108 secure approval of a Choice Gas program in Colorado, and the recent filing of the Cost of Service
109 Gas Program by Black Hills suggest that a pro-competition program that has been in place for
110 many years in SourceGas may be in jeopardy when under the management of Black Hills. While
111 this may not occur at the close of the merger, these recent actions and statements suggest the
112 discontinuation of Choice Gas may be effectuated shortly thereafter.

113 ***Q16. WHY DO YOU BELIEVE THE COST OF SERVICE GAS PROGRAM CONFLICTS WITH A***
114 ***COMPETITIVE MARKETPLACE?***

115 ***A16.*** Currently in the SourceGas Choice Programs residential/commercial and agricultural customers
116 have the ability to choose their natural gas supplier, pricing option and term of their agreement.
117 All of these options may be stripped from the customer if Black Hills adopts its proposed Cost of
118 Service Gas Program¹.

119
120 ***Q17. WHY SHOULD THE COMMISSION BE CONCERNED WHETHER APPROVAL OF THE***
121 ***MERGER BETWEEN BLACK HILLS AND SOURCEGAS IMPACTS THE LEVEL OF***
122 ***COMPETITIVE OPTIONS FOR NEBRASKA RATEPAYERS?***

123 ***A17.*** Because the SourceGas Program has been in effect since 1998 in Nebraska, state residents have
124 become accustomed to having a choice of supplier and having the freedom to select their price,
125 price option, and term of agreement. The Choice program exists to protect consumers from
126 mandatory utility rate increases and taking away their ability to make a choice, puts the
127 consumer back where they started prior to the restructuring of the natural gas industry.

128 ***Q18. WHAT ARE YOUR RECOMMENDATIONS FOR THIS PROCEEDING?***

¹ In the Matter of the Application of Black Hills/Nebraska Gas Utility Company, LLC, d/b/a Black Hills Energy, seeking Approval of its Cost of Service Gas Hedge Agreement With Black Hills Utility Holdings, Inc.; http://www.psc.nebraska.gov/natgas/natgas_ng-0086.html

129 **A18.** If the Commission determines it is in the public interest of Nebraska ratepayers to approve the
130 merger application, Constellation respectfully requests that the Commission, as conditions of
131 approval, order:

132 • Continuation of the SourceGas Choice Gas program in Nebraska for a period of time not less
133 than the next ten (10) years; and

134 • Agreement not to expand the Black Hills Cost of Service Gas Program to SourceGas
135 customers until analysis has been conducted on the impact the Program would have on
136 competitive markets and Choice Gas within SourceGas.

137 **Q19. DOES THIS CONCLUDE YOUR TESTIMONY?**

138 **A19.** Yes, reserving the right to comment further on statement and submissions submitted to the
139 Commission after this date.

140

Exhibit A

Nebraska

	2015
Constellation	Accts
Balloted	13,643
Default	5,449
Total	19,092
ACE	Accts
Balloted	4,917
Default	13,027
Total	17,944
SGES	Accts
Balloted	11,972
Default	24,321
Total	36,293
Vista	Accts
Balloted	2,894
Default	3,557
Total	6,451

Wyoming

	2015
WCG	Accts
Balloted	10,502
Default	6,407
Total	16,909
Archer	Accts
Balloted	699
Default	0
Total	699
Continuum*	Accts
Balloted	222
Default	1,958
Total	2,180
SGES	Accts
Balloted	8,119
Default	11,819
Total	19,938
SG Utility	Accts
Balloted	697
Default	30,589
Total	31,286
Vista	Accts
Balloted	2,294
Default	3,779
Total	6,073
WoodRiver	Accts
Balloted	1,057
Default	755
Total	1,812
WPCA	Accts
Balloted	809
Default	2,503
Total	3,312

THE STATE OF KANSAS
COUNTY OF SHAWNEE

§
§
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Before me, the undersigned notary public, on this day personally appeared Patti Kent, to me known to be the person whose name is subscribed to the foregoing instrument, who being duly sworn according to law, deposes and says:

“My name is Patti Kent. I am over the age of eighteen years and am competent to make this affidavit. All facts stated herein are based on personal knowledge.

I am employed by CNE Gas Holdings, LLC (“CNG”) as Supervisor, Direct Sales, Mass Markets, and in the course of my employment have personal knowledge of the facts stated in the testimony for Constellation NewEnergy-Gas Division, LLC.

The information contained in the testimony is true and correct to the best of my knowledge and belief.”

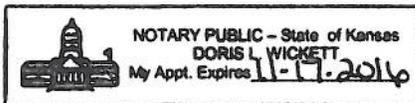
Further affiant sayeth not.

Patti Kent
Patricia Kent

Given under my hand and seal of office this 5 day of November, A.D., 2015.

Doris L. Wickett

Notary Public in and for the State of Kansas



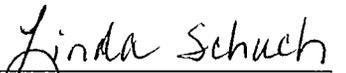
My Commission Expires On:

November 17, 2016

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2015, the foregoing document was served by delivering copies thereof to the individuals/entities below, by e-mail:

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Linda Schuch
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