



COMMISSIONERS:  
ROD JOHNSON  
CRYSTAL RHOADES  
MARY RIDDER  
TIM SCHRAM  
DAN WATERMEIER

December 13, 2022

## CERTIFICATION

To Whom It May Concern:

I, Thomas W. Golden, Executive Director of the Nebraska Public Service Commission, hereby certify that the enclosed is a true and correct copy of the original order made and entered in the proceeding docketed NG-117 on the 13th day of December 2022. The original order is filed and recorded in the official records of the Commission.

Please direct any questions concerning this order to Jon Smith, Legal Counsel, at 402-471-3101.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the Nebraska Public Service Commission, Lincoln, Nebraska, this 13th day of December 2022.

Sincerely,

A handwritten signature in black ink that reads "Thomas W. Golden".

Thomas W. Golden  
Executive Director



TWG:da

Enclosure

cc: William Austin, Public Advocate, 2511 S. 77<sup>th</sup> Place, Lincoln, NE 68506  
Douglas J. Law, Black Hills Energy, 1731 Windhoek Drive, Lincoln, NE 68502  
Robert J. Amdor, Black Hills Energy, 1731 Windhoek Drive, Lincoln, NE 68502  
Tyler Frost, Black Hills Energy, 1731 Windhoek Drive, Lincoln, NE 68502  
Kevin Jarosz, Black Hills Energy, 1731 Windhoek Drive, Lincoln, NE 68502

Thomas W. Golden, Executive Director  
**Public Service Commission**

P.O. Box 94927      OFFICE 402-471-3101      FAX 402-471-0254  
300 The Atrium, 1200 N Street      CONSUMER HOTLINE 800-526-0017  
Lincoln, Nebraska 68509

[psc.nebraska.gov](http://psc.nebraska.gov)

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---

## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Black Hills                    )           Application No. NG-117  
Nebraska Gas, LLC d/b/a Black                )  
Hills Energy, Rapid City, South             )  
Dakota, seeking approval to                )           ORDER APPROVING THE  
implement a voluntary renewable             )           APPLICATION  
natural gas and carbon offset                )  
program.   )           Entered: December 13, 2022

BY THE COMMISSION:

On August 12, 2022, Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy ("Black Hills") filed an application with the Nebraska Public Service Commission ("Commission") seeking approval to implement a voluntary renewable natural gas and carbon offset program ("VRNG Program") to be made effective on January 1, 2023. A petition for Formal Intervention by the Nebraska Public Advocate ("PA") was approved by the Commission on August 18, 2022. No other parties have intervened in this docket.

Following discussion with the parties, a hearing officer order was issued on September 29, 2022 setting the procedural schedule for this docket. Pursuant to the scheduling order, the parties engaged in discovery and a hearing was set for November 9, 2022.

### E V I D E N C E

On November 9, 2022, a hearing was held in the above-captioned matter. Mr. Douglas J. Law appeared on behalf of Black Hills. Mr. William Austin appeared on behalf of the Public Advocate. Mr. Jonathan Smith and Ms. Nichole Mulcahy appeared on behalf of Commission staff. Exhibits numbered 1 - 9 were offered and accepted, including the Application of Black Hills (Exhibit No. 5), the PA's Report (Exhibit No. 9), and Black Hills' Response to the PA's Report (Exhibit No. 8).

During the hearing, Black Hills called Mr. Tyler Frost and Ms. Katie Fleming to testify regarding Black Hills' VRNG Program application. Mr. Frost, Black Hills' Regulatory and Finance Manager for Nebraska, provided a summary of his written testimony marked as Exhibit No. 6.<sup>1</sup> Mr. Frost outlined the proposed VRNG Program, its value to Black Hills' customers, and the economics

---

<sup>1</sup> Hearing Transcript 10:19-11:9.

and timeline of the VRNG Program.<sup>2</sup> Mr. Frost testified that Black Hills will use a deferred accounting treatment to record and defer the revenues and expenses associated with the VRNG Program to ensure that only program participants pay for the cost of the VRNG Program.<sup>3</sup> He emphasized the voluntary nature of the VRNG Program and that it would have no impact on nonparticipating Black Hills' customers.<sup>4</sup> Mr. Frost was then made available for questions.

Upon questioning Mr. Frost confirmed the \$5.00 cost per block would stay at that rate throughout the proposed four-year pilot term of the VRNG Program and is consistent across all states for which Black Hills has filed the program.<sup>5</sup> Mr. Frost then confirmed that any losses experienced by Black Hills, should the VRNG Program be terminated at any time, would be borne by Black Hills and its shareholders, not its customers.<sup>6</sup> Mr. Frost also stated that Black Hills would provide the Commission with a report updating the Commission on the progress of the VRNG Program on a semi-annual or annual basis. He stated the form and content of the report would be designed in collaboration with the public advocate and Commission Staff before ultimately filing it with the Commission for consideration and approval.<sup>7</sup>

Black Hills then called its second witness Katie Fleming, Director of Corporate Planning, Sustainability, and ESG (Environmental, Social, and Governance).<sup>8</sup> Ms. Fleming also provided the Commission with a summary of her written testimony, marked as Exhibit No. 7. First, Ms. Fleming provided an overview and rationale for the proposed VRNG Program. She then summarized the customer research conducted by Black Hills and provided an overview of the VRNG Program design structure.<sup>9</sup> At the conclusion of Ms. Fleming's testimony, Black Hills called no further witnesses, and closed its presentation of evidence.

The Public Advocate, William Austin, then presented a summary of the Public Advocate's report, marked as Exhibit No. 9. Mr. Austin emphasized the voluntary nature of the VRNG Program. He stated that Black Hills' VRNG Program is completely voluntary, and

---

<sup>2</sup> *Id.* at 12:6-14:23.

<sup>3</sup> *Id.* at 12:25-13:7.

<sup>4</sup> *Id.* at 14:2-15.

<sup>5</sup> *Id.* at 15:16-21.

<sup>6</sup> *Id.* at 16:23-17:3.

<sup>7</sup> *Id.* at 31:3-32:1.

<sup>8</sup> *Id.* at 38:24-39:21.

<sup>9</sup> *Id.* at 40:19-42:22.

the PA and his consultants anticipate that it will have no effect on ratepayers who are not participating in the program.<sup>10</sup>

Mr. Austin then summarized the five concerns he initially had with the VRNG Program. First, regarding his recommendation that Black Hills should file a report with the Commission and the PA, Mr. Austin stated that Black Hills was committed to providing a report on either an annual or semi-annual basis. Second, Mr. Austin stated that Black Hills should increase its efforts to spur development of RNG and other renewable projects within Nebraska, beginning in Year 3. Mr. Austin stated that Black Hills was committed to increasing renewable projects in Nebraska and would provide a report in this area as well. Third, Mr. Austin had concerns about the estimated total cost for the VRNG Program. Mr. Austin stated that Black Hills ensured him they were also sensitive to the costs and will be monitoring those closely as the VRNG Program progresses. Fourth, Black Hills had not defined how some of the VRNG Program costs, including full-time employees, would be segregated. Mr. Austin stated that Black Hills will inform the Commission and the PA of its costs and allocation method in the future, ensuring all VRNG Program costs are exclusively recovered from participating customers. Mr. Austin also stated that Black Hills is willing to provide a most favored jurisdiction clause, ensuring Nebraska can take advantage of more favorable provisions approved in other states. Fifth, Mr. Austin had concerns about some of the terminology contained in Black Hills' tariffs, however, Black Hills subsequently filed updated tariff language alleviating Mr. Austin's concerns.

In conclusion, Mr. Austin stated that the foregoing concerns he initially had with the VRNG Program were adequately addressed by Black Hills, and he therefore did not have an objection to the VRNG Program nor any further recommendations.<sup>11</sup> Following the PA's statement, the hearing was adjourned.

#### F I N D I N G S   A N D   O P I N I O N

Pursuant to the State Natural Gas Regulation Act, *Neb. Rev. Stat. § 66-1804(a)*, the Commission has "full power, authority and jurisdiction to regulate natural gas public utilities and may do all things necessary and convenient for the exercise of such power, authority, and jurisdiction." The Legislature expressly intended

---

<sup>10</sup> *Id.* at 55:12-56:25.

<sup>11</sup> *Id.* at 58:9-60:7.

that the powers granted to the Commission by the Act be "liberally construed."<sup>12</sup>

The Commission finds the VRNG Program as proposed by Black Hills in this docket should be approved. The company has demonstrated to our satisfaction that the program will be entirely voluntary with sufficient protections to ensure no costs related to the program, whether successful or not, will ever be recovered from non-participating customers. Further, the deferred accounting treatment proposed by the Company for the VRNG Program will help to ensure the VRNG Program and its cost will be restricted to participating customers only. Finally, customers may choose to participate or cease to participate in the program on a month-to-month basis at any time with no penalties or other adverse consequences.

The Commission also finds that the recommendations set forth in the PA report, filed as Exhibit 9, are generally reasonable and should be adopted. These recommendations include a requirement that Black Hills file a formal report summarizing the progress of the VRNG Program on a semi-annual basis. We agree that a semi-annual report is preferable. Additionally, as discussed with the PA, the Commission finds that Black Hills shall file with its first report its allocation methodology for any shared costs, employees, services, and/or resources utilized by the VRNG program. We also direct Black Hills to report on the status of renewables in its system as recommended by the PA. Black Hills has committed to work with the PA and Commission Staff to determine both the content, format, and filing deadlines of the semi-annual reports to the Commission. The Commission directs the Company, PA, and Commission staff to collaborate to finalize the details of the report. The Commission finds that the first report shall be filed with the Commission no later than June 30, 2023.

We find the VRNG Program will provide benefits to both Black Hills and to customers who choose to participate, while not harming any non-participating customers. Therefore, we find Black Hills' proposed VRNG program, its corresponding tariff with any updates necessary regarding reporting as described below, and the deferred accounting mechanism to track its revenues and expenses, should be approved.

---

<sup>12</sup> "The State Natural Gas Regulation Act and all grants of power, authority, and jurisdiction in the act made to the commission shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of the act are expressly granted to and conferred upon the commission." *Neb. Rev. Stat.* §66-1804(b).

Based upon the forgoing and the parties' agreement on the record to finalize reporting details, the Commission finds that Black Hills' proposed VRNG Program, beginning January 1, 2023, and running through December 31, 2026, should be approved. Should Black Hills desire to continue the program beyond the pilot period, it shall seek further approval from the Commission.

Finally, tariff sheet No. 137, including both a redlined and clean version, is attached to this order for review and incorporated by reference. The Commission finds the revised tariff sheet should be approved, effective January 1, 2023.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy, Rapid City, South Dakota, seeking approval to implement a voluntary renewable natural gas and carbon offset program for a four-year pilot period from January 1, 2023 to December 31, 2026, be approved.

IT IS FURTHER ORDERED that Black Hills Energy, Nebraska Gas Tariff, Revised Sheet No. 137, including both a redlined and clean version attached to this order and incorporated by reference, be, and is hereby approved, with an effective date of January 1, 2023.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 13th day of December, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Rod Johnson*  
*Crystal Broadus*  
*Mary Keddin*  
*Tom Schram*

*Dee Woodruff*  
Chair

ATTEST:

*Thomas W. Golden*  
Executive Director

---

**RATE SCHEDULES AND OTHER CHARGES**  
**VOLUNTARY RENEWABLE NATURAL GAS (RNG) AND CARBON OFFSET PROGRAM**

---

**DESCRIPTION** This voluntary program ("Program") is available to all Residential and Commercial customers in good standing with the Company who actively opt-in to the Program. The Program offers customers the option to offset their emissions associated with natural gas usage. This Program is effective until terminated by the Company or at the end of the pilot period, December 31, 2026, unless an extension of the Program is approved by the Commission.

Customers choosing to participate in the Program will continue to purchase their natural gas commodity and transportation subject to rates, based on the respective customer class, as listed on Schedule of Rates Sheet No. 78, Gas Cost rates for Rate Areas 1-3 as set forth on Sheet Nos. 95 and 96, Gas Supply Cost Adjustment as set forth on Sheet No. 123, Gas Cost rates for Rate Area 5 (Supplier Commodity Charge) is the applicable rate agreed to by the Customer and its Supplier in the Choice Gas Program set forth on Sheet Nos. 97 to 107.

---

**RATE** Upon enrollment, customer selects a set number of blocks to offset natural gas usage emissions. Each block represents 20.5 therms of offset to natural gas usage emissions. There is no limit to the amount of blocks a customer may select and customers may adjust the number of blocks at any time. Changes to enrolled blocks will become effective with the next billing cycle and do not require reenrollment procedures.

Per 20.5 Therm Block:            \$5.00 per month

---

**CONDITIONS OF SERVICE** The Company may limit customer participation in the Program to balance demand with available environmental attributes created or obtained by the Company. Company shall forecast and plan to create or obtain environmental attributes to meet projected quantities purchased under this Program.

---

**MINIMUM TERMS AND CONDITIONS** The minimum term available to customers is one complete billing month, extending month-to-month thereafter until terminated by the customer or termination of the Program, whichever occurs first. Customers are able to terminate their participation and/or adjust the number of blocks at any time effective with their next billing cycle.

---

**COST RECOVERY** Revenues received from voluntary participant fees will be used to fund the cost of the Program including, but not limited to, the purchase of environmental attributes, ongoing administration, marketing and overhead costs.

---

DATE OF ISSUE: ~~October 4~~ August 12, 2022  
ISSUED BY: Robert J. Amdor

EFFECTIVE DATE: January 1, 2023

Received by NPSC 10/04/2022

---

**RATE SCHEDULES AND OTHER CHARGES**  
**VOLUNTARY RENEWABLE NATURAL GAS (RNG) AND CARBON OFFSET PROGRAM**

---

**DESCRIPTION** This voluntary program ("Program") is available to all Residential and Commercial customers in good standing with the Company who actively opt-in to the Program. The Program offers customers the option to offset their emissions associated with natural gas usage. This Program is effective until terminated by the Company or at the end of the pilot period, December 31, 2026, unless an extension of the Program is approved by the Commission.

Customers choosing to participate in the Program will continue to purchase their natural gas commodity and transportation subject to rates, based on the respective customer class, as listed on Schedule of Rates Sheet No. 78, Gas Cost rates for Rate Areas 1-3 as set forth on Sheet Nos. 95 and 96, Gas Supply Cost Adjustment as set forth on Sheet No. 123, Gas Cost rates for Rate Area 5 (Supplier Commodity Charge) is the applicable rate agreed to by the Customer and its Supplier in the Choice Gas Program set forth on Sheet Nos. 97 to 107.

---

**RATE** Upon enrollment, customer selects a set number of blocks to offset natural gas usage emissions. Each block represents 20.5 therms of offset to natural gas usage emissions. There is no limit to the amount of blocks a customer may select and customers may adjust the number of blocks at any time. Changes to enrolled blocks will become effective with the next billing cycle and do not require reenrollment procedures.

Per 20.5 Therm Block:            \$5.00 per month

---

**CONDITIONS OF SERVICE** The Company may limit customer participation in the Program to balance demand with available environmental attributes created or obtained by the Company. Company shall forecast and plan to create or obtain environmental attributes to meet projected quantities purchased under this Program.

---

**MINIMUM TERMS AND CONDITIONS** The minimum term available to customers is one complete billing month, extending month-to-month thereafter until terminated by the customer or termination of the Program, whichever occurs first. Customers are able to terminate their participation and/or adjust the number of blocks at any time effective with their next billing cycle.

---

**COST RECOVERY** Revenues received from voluntary participant fees will be used to fund the cost of the Program including, but not limited to, the purchase of environmental attributes, ongoing administration, marketing and overhead costs.

---

DATE OF ISSUE: October 4, 2022  
ISSUED BY: Robert J. Amdor

EFFECTIVE DATE: January 1, 2023

Received by NPSC 10/04/2022