

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy, Rapid City, South Dakota, seeking approval of a Natural Gas rate increase)	Application No. NG-124
)	
)	ORDER APPROVING SETTLEMENT AGREEMENTS
)	
)	
)	Entered: December 9, 2025

BY THE COMMISSION:

On May 1, 2025, Black Hills Nebraska Gas, LLC, d/b/a Black Hills Energy (“Black Hills” or “Applicant”) filed an application (“Application”) with the Nebraska Public Service Commission (“Commission”), seeking a general rate increase. On May 8, 2025 the Commission granted the formal intervention of the Nebraska Public Advocate (“PA”). On June 6, 2025, the Commission granted the formal intervention of WoodRiver Energy, LLC (“WoodRiver”).¹

Based upon a test year ending December 31, 2024, Black Hills sought a revenue increase of \$34.9 million per year.² Black Hills proposed a return on equity of 10.5%, with an opportunity to earn an overall rate of return of 7.63%.³ Black Hills identified the following primary factors necessitating an increase in rates: (1) recovery of investments made by Black Hills in capital infrastructure since the 2020 rate review that are not System Safety Integrity Rider (“SSIR”) eligible as well as including in base rates the SSIR investments made since 2020; (2) SSIR Renewal; (3) impacts of inflation leading to increased operating and maintenance expenses, material costs, insurance costs, and labor; and (4) increased cost of debt due to a higher interest rate environment.⁴

¹ On June 6, 2025, the Commission granted the Federal Executive Agencies’ (“FEA”) formal intervention in this proceeding. However, on June 16, 2025, the FEA filed a motion to withdraw from the proceeding, which the Commission approved on June 20, 2025.

² *Application for General Rate Increase*, Application No. NG-124, Executive Summary of Application at iv (May 1, 2025).

³ *Id.*

⁴ See generally Direct Testimony and Exhibits of Brooke N. Bassell-Herman, filed May 1, 2025 (“Bassell-Herman Testimony”).

As permitted by Neb. Rev. Stat. § 66-1838(10)(b), Black Hills instituted interim rates in the amount of the requested increase, effective August 1, 2025. Any difference between the initial request and the final Commission decision on the rates is to be credited back to customers, with interest, in the form of a credit on customers' bills after the rate case has concluded.

The PA, with the assistance of her consultants, conducted a review of Black Hills' filing. This review included audits of Black Hills' projects included in the 2026 SSIR application filed as part of Black Hills' Application. In addition to the review conducted by the PA, the Commission, assisted by its staff and its own consultants, conducted an independent assessment of the Application and subsequent information provided through the course of discovery.

Based upon her review, the PA proposed a revenue requirement of \$16.7 million, with a return on equity of 9.42%, and an overall rate of return of 7.02%.⁵ Black Hills, the PA, and WoodRiver engaged in settlement negotiations throughout the pendency of the Application. These negotiations resulted in two Joint Stipulations and Agreements of Settlement being filed with the Commission. One between Black Hills and the PA, with Settlement Exhibits A through D ("PA Settlement Agreement") and one between Black Hills, the PA, and WoodRiver ("Choice Gas Program Settlement Agreement").⁶ On October 7, 2025, Black Hills, along with the parties to the proceeding, filed the settlement agreements with the Commission and jointly recommended approval, stating that the settlement agreements had resolved all issues in the docket.⁷

E V I D E N C E

A hearing on this matter was held on October 15, 2025 for purposes of presenting the settlement agreements. At the hearing, Douglas Law, Associate General Counsel for Black Hills, and Adam Buhrman, Corporate Counsel for Black Hills, appeared on behalf of the Applicant. Chris Dibbern, acting Public Advocate, and Derek Aldridge, Attorney with Perry, Guthery, Haase & GessFord, P.C., L.L.O.,

⁵ See generally Direct Testimony and Exhibits of Donna H. Mullinax, filed August 15, 2025 ("Mullinax Testimony").

⁶ A copy of both settlement agreements are attached to this Order and incorporated herein.

⁷ Joint Motion to Amend Order Setting Procedural Schedule and Notice of Hearing and Filing of Settlement Agreements, Application No. NG-124, at 1 (October 7, 2025).

appeared on behalf of the Public Advocate. Jonathan Smith, Alex Timperley, and Nichole Mulcahy appeared on behalf of the Natural Gas Department of the Commission ("Department"). Numerous exhibits were entered into the record, including copies of written testimony filed on behalf of Black Hills and the PA, all responses to data requests, various work papers, and several exhibits on behalf of the Commission. A complete list of exhibits is attached to the hearing transcript.

Brooke Bassell-Herman, Director of Regulatory for Nebraska and Iowa, Lori Mack, Manager Regulatory, and Kevin Jarosz, Vice President of Operations, testified on behalf of Black Hills.⁸ Following Black Hills' testimonies, Mr. Aldridge offered an opening statement on behalf of the PA,⁹ afterwhich, Donna Mullinax testified on behalf of the PA.¹⁰ Following Ms. Mullinax's testimony, no further evidence was offered and no additional witnesses were called. The hearing was adjourned.

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

The State Natural Gas Regulation Act ("the Act") specifically provides authority for the PA and other parties in a general rate proceeding to enter into settlement agreements.¹¹ As required by the Act, the Commission must ensure that agreements filed in rate review proceedings are in compliance with the provisions of the Act.¹² Section 66-1825 of the Act sets forth specific statutory rate application review requirements, which the Commission has fully considered in this proceeding.

The settlement agreements reached between Black Hills and the other parties to this proceeding are attached to this Order and incorporated herein. The settlement agreements submitted to the Commission resolve all disputed issues in this proceeding. Neb. Rev. Stat. § 66-1838(14) states the following:

"Any agreement filed with the commission shall be presumed in the public interest, and absent any clear evidence on the face of the agreement that it is contrary to the standards and provisions of the State Natural Gas Regulation

⁸ Hearing Transcript at 32:21-115:20.

⁹ *Id.* at 116:22-120:12.

¹⁰ *Id.* at 120:22-123:14.

¹¹ Neb. Rev. Stat. § 66-1831.

¹² Neb. Rev. Stat. § 66-1838(14).

Act, the agreement shall be approved by the commission within a reasonable time.”

The Commission finds that the negotiated settlement agreements do not clearly violate the Act and, therefore, shall be approved and adopted in their entirety. However, the Commission has highlighted several key provisions of the agreements for further discussion below.

1. Choice Gas Program Settlement Agreement

The Choice Gas Program Settlement Agreement between Black Hills, the PA, and WoodRiver regarding the Choice Gas Program resolves all outstanding issues related to the Choice Gas Program raised by WoodRiver in its intervention. The Agreement acknowledges the timing of Black Hill’s rate application did not give Choice Gas Suppliers prior notice of the proposed rate increase by Black Hills that could affect Fixed Monthly Bill (“FMB”) programs. Further, the Agreement defers discussion of the impact on FMB programs to the Annual Supplier Meeting in October of 2025 and to the Commission’s Docket No. NG-102¹³ annual workshop in June of 2026.¹⁴

The Commission has reviewed the provisions of the Choice Gas Program Settlement Agreement and finds it to be just and reasonable and should be adopted.

2. PA Settlement Agreement

The following comments specifically reference the settlement agreement between the PA and Black Hills.

A. Revenue Requirement and Cost of Capital

The PA Settlement Agreement established an increase of annual revenue for Black Hills, to be recovered through its general retail gas rates, of \$23,907,670.¹⁵

¹³ *In the Matter of the Commission, on its own motion, seeking to review policies and practices relating to the administration of customer choice programs for natural gas service offered within the State of Nebraska*, Application No. NG-102/PI-225.

¹⁴ Joint Motion, Application No. NG-124, Exhibit 2 at 4.

¹⁵ Joint Stipulation and Agreement of Settlement between Black Hills Nebraska Gas, LLC D/B/A Black Hills Energy and the Public Advocate of Nebraska, Application No. NG-124, at 10 (October 7, 2025).

Further, the capital structure for Black Hills will be 50.52% equity and 49.48% debt. The actual cost of debt of Black Hills is calculated to be 4.67%. The Return on Equity ("ROE") is calculated to be 9.85%. The overall Weighted Average Cost of Capital ("WACC") is calculated to be 7.29%.¹⁶

The Commission has reviewed the calculations described above and finds them to be just and reasonable, and therefore should be adopted.

B. Reclassification of Western, Nebraska

The PA Settlement Agreement establishes that the Choice Gas Program will not be changed in this proceeding except for reclassification of customers located within the village of, Western, Nebraska from Base Rate Area Five, which participates in the Choice Gas Program, to Base Rate Area Three, which does not. Western is the only community participating in the Choice Program that is served by interstate pipeline, Northern Natural Gas Company, adding additional administrative costs to serve Western. Reclassifying Western with similarly situated communities in Base Rate Area Three will result in reductions in Operating Expenses of \$6,527 (Jurisdictional).¹⁷ Black Hills will notify customers in Western of the change in the First Quarter of 2026. Further, Black Hills will file revised tariff sheets with the Commission on or about May 1, 2026 to reclassify the customers located within Western, Nebraska from Rate Area Five to Rate Area Three, effective June 1, 2026.¹⁸

The Commission has reviewed this term of the PA Settlement Agreement and finds it to be just and reasonable.

C. Rate Structure

The customer charges and rates agreed upon in the PA Settlement Agreement, with comparisons to the previous rates and interim rates, are listed on the following page:¹⁹

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 17.

¹⁹ *Id.* at 18-19.

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	BH Previous	BH Interim	BH Settled
Residential Customer Charge	\$15.45 per month	\$31.00 per Month	\$27.95 per Month
Small Commercial Customer Charge	\$28.43 per Month	\$48.00 per Month	\$48.00 per Month
Large Commercial Customer Charge	\$28.43 per Month	\$121.00 per Month	\$112.00 per Month
Residential Distribution Charge – Tier 1	\$0.50858/Therm First 20 Therms	\$0.42242/Therm First 10 Therms	\$0.42989/Therm First 10 Therms
Residential Distribution Charge – Tier 2	\$0.15000/Therm Over 20 Therms	\$0.15000/Therm Over 10 Therms	\$0.15000/Therm Over 10 Therms
Small Commercial Distribution Charge – Tier 1	\$0.50858/Therm First 40 Therms	\$0.95940/Therm First 20 Therms	\$0.95940/Therm First 20 Therms
Small Commercial Distribution Charge – Tier 2	\$0.15000/Therm Over 40 Therms	\$0.15000/Therm Over 20 Therms	\$0.15000/Therm Over 20 Therms
Large Commercial Distribution Charge – Tier 1	\$0.50858/Therm First 40 Therms	\$0.22484/Therm First 500 Therms	\$0.17803/Therm First 500 Therms
Large Commercial Distribution Charge – Tier 2	\$0.15000/Therm Over 40 Therms	\$0.15000/Therm Over 500 Therms	\$0.15000/Therm Over 500 Therms

At hearing, Ms. Bassell-Herman testified that the negotiated structure will result in a smaller overall increase to customer bills. She stated the average

residential increase will be \$2.85 per month, the average small commercial increase will be \$5.34 per month, and the average large commercial increase will be \$72.01 per month.²⁰ She further stated that the PA Settlement Agreement balances the need for utility cost recovery and infrastructure investment along with customer affordability, predictability and fairness. It also moderates the bill impacts and aligns rates with the actual cost drivers and competitive pressures.²¹

The Commission has reviewed the agreed-upon rate structure and finds it should be adopted. The Commission notes the inclusion of separate small and large commercial classes and acknowledges it as an improvement from the prior unified one commercial class. However, the Commission is concerned about the significant increase to the fixed customer charges and the shifting of a substantial portion of revenue recovery into fixed charges, rather than volumetric rates. The Commission is concerned it may reduce a customer's ability to control their bill by reducing their usage and conserving energy and disincentivize customers to invest in more efficient appliances. Additionally, the higher fixed charges may negatively impact certain types or classes of users more significantly, particularly low-use customers. Further, the Commission continues to be concerned that the declining block rate structure implemented in the previous rate case, does little to encourage conservation and efficiency. In future rate filings, the Commission expects that proposed increases in the fixed customer charge will be implemented more gradually and that the Company will evaluate designs that recover a greater share of revenue through the variable component of the rate.

Notwithstanding these concerns, the Commission approves the settlement rate structure as agreed upon by the parties. The Commission emphasizes, however, that its approval does not indicate endorsement of the magnitude of the increase in fixed customer charges or the continued use of a declining block rate design. The Commission expects that future rate filings will include a close analysis of the bill impacts resulting from the proposed rate structure, and a demonstration that bill impacts are not disproportionately affecting certain groups of customers.²²

²⁰ Hearing Transcript at 44:15-20.

²¹ *Id.* at 48:21-25.

²² Neb. Rev. Stat. § 66-1825 requires that rates shall be reasonably consistent in application to a class of ratepayers and shall not unreasonably preference or disadvantage any person and prohibits subsidization. The Commission does not think the proposed rate structure violates this section, however, in future proceedings the Commission would like to see additional bill impact analysis and demonstration on how the proposed structure impacts different rate payers.

D. System Safety and Integrity Rider

With regard to the SSIR, the parties agree that the SSIR mechanism should be renewed for a period of five years and that the proposed 2026 SSIR Projects identified in the Application should be approved.²³ Mr. Aldridge, along with the PA's experts, issued a strong endorsement of the SSIR program at the hearing.²⁴ The Commission also finds the renewal of the SSIR program to be in the public interest. The SSIR program was intended to encourage Black Hills to invest in infrastructure and allow reasonable, prudent investments for infrastructure to be recouped in a more timely fashion and it has successfully achieved that goal.

The Commission has reviewed the parties' agreement as to the SSIR and finds it is just and reasonable and should be adopted.

E. Weather Normalization Adjustment Rider ("WNA Rider")

The Parties agree that Black Hills will develop a two-year pilot program for the WNA Rider. At the end of the pilot period, a final true-up factor will be filed and applied to customer bills. The PA will be given the opportunity to conduct an audit of the accuracy of the WNA at the end of the pilot and file its findings with the Commission. The WNA will not be extended unless the Commission affirmatively approves an application to do so.²⁵

The Commission has reviewed this term of the PA Settlement Agreement and finds it to be just and reasonable for approval as a limited pilot. However, the Commission remains cautious regarding the necessity and overall public interest of implementing a Weather Normalization Adjustment in concert with higher fixed cost recovery mechanisms approved in the rate design section discussed above. Approval of this provision is therefore based solely on its limited, temporary nature as a pilot program. The Commission expects that, prior to any continuation of the WNA Rider, Black Hills will apply for authority to do so, and provide a comprehensive analysis of the pilot results.

²³ PA Settlement Agreement at 22.

²⁴ Hearing Transcript at 119:9-14.

²⁵ *Id.* at 22.

F. Insurance Expense Deferred Accounting Treatment

The parties agree that Black Hills will track future insurance expenses to a baseline amount of \$3,012,652 (Jurisdictional) in a deferred asset account.²⁶ Future recovery of the deferred asset account is contingent on a Commission prudence review and approval.²⁷ At the hearing Ms. Bassell-Herman testified that insurance expenses tracked will include future insurance premium costs relating to property, business operations, and liability insurance.²⁸

The Commission has reviewed the parties' agreement as to the insurance expense deferred accounting treatment and finds it is just and reasonable and should be adopted.

3. Reasonableness of Settlement Agreements

Under Neb. Rev. Stat. § 66-1838(14), an agreement reached in a general rate filing shall be presumed to be in the public interest. The role of the Commission in reviewing such a settlement is to ensure there is no "clear evidence on the face of the agreement that it is contrary to the standards and provisions of the State Natural Gas Regulation Act."

At hearing, both Black Hills and the PA requested approval of the settlement agreements. Ms. Bassell-Herman testified that she believes the PA Settlement Agreement reflects a balanced outcome that supports the continued provision of safe and reliable service while mitigating rate impacts on customers. She stated the PA Settlement Agreement moderates the requested rate increase, updates cost recovery mechanisms, provides for the deferred recovery of certain costs, renews key riders, and implements a rate design that balances utility financial health with customer affordability.²⁹ Similarly, Mr. Aldridge, on behalf of the PA, testified that the parties have presented a fair settlement for both Black Hills and its ratepayers. Mr. Aldridge noted that Black Hills' initial request for a \$34.9 million revenue increase was reduced to \$23.9 million, an \$11 million savings for customers. He also noted the reduction in the proposed rate of return from 10.50% to 9.85%. Mr. Aldridge further

²⁶ PA Settlement Agreement at 21.

²⁷ *Id.*

²⁸ Hearing Transcript at 40:13-41:3.

²⁹ *Id.* at 49:22-50:6.

highlighted a hard-fought compromise on depreciation rates, which resulted in additional savings for customers. In conclusion, Mr. Aldridge testified that the PA believes the settlement agreements represents a fair, reasonable, and just compromise between the parties.³⁰

The Commission finds that the settlement agreements are made pursuant to Nebraska law and are intended to relate only to specific matters referenced therein. No party to the settlement agreements shall be deemed to have approved, accepted, agreed or consented to any ratemaking principle, any method of cost of service determination, any method of cost allocation or the resolution of any specific issue that may underlie or be implied by the provisions of the settlement agreements or be prejudiced or bound thereby in any other current or future proceeding before the Commission.

These settlement agreements represent a negotiated settlement of the issues in this proceeding and do not establish binding precedent on the Commission for future rate cases. The Commission will continue to monitor programs established and reviewed in this proceeding and modifications may be made in future rate cases or other proceedings.

The role of the Commission under state law is to balance the interests of the company with the interests of the consumer.³¹ The Commission has reviewed the settlement agreements and find that these interests are adequately balanced, and the terms set forth therein are just and reasonable and in the public interest. The Commission therefore finds that the settlement agreements should be approved.

4. Tariff Provisions, Interim Rates, and Refund Plan

The PA Settlement Agreement incorporates by reference the tariff provisions included in the Application, Exhibit 1, Section 8, with additional revisions set forth in the PA Settlement Agreement, Exhibit D. Revisions include updating rate schedules for the settlement rates, adding language around the timing of disconnections, and revising the WNA Rider language for the pilot program. All Tariff provisions attached

³⁰ *Id.* at 116:24-120:12.

³¹ Neb. Rev. Stat. § 66-1825(3) ("The commission . . . shall give due consideration to the public need for adequate, efficient, and reasonable natural gas service and to the need of the jurisdictional utility for revenue sufficient to enable it to meet the cost of furnishing the service . . . and to earn a fair and reasonable return upon the investment in such property.").

to the PA Settlement Agreement, Exhibit D, are scheduled to take effect January 1, 2026.³²

As part of this proceeding, Black Hills implemented interim rates on August 1, 2025. The difference between these rates and the final rates approved by the Commission is subject to refund.³³ The PA Settlement Agreement states that final rates may be implemented and become effective on January 1, 2026, and that it will refund the difference, with interest, between interim rates and final rates for the period of August 1, 2025 through December 31, 2025.³⁴ Black Hills stated it will file a refund plan on or before March 1, 2026.³⁵

The Commission finds the above deadlines to be reasonable. Therefore, the final rates listed in the PA Settlement Agreement along with the revised tariff provisions attached to the PA Settlement Agreement, Exhibit D, shall be implemented and become effective January 1, 2026. Furthermore, Black Hills shall file with the Commission a plan to refund ratepayers the full amount overcollected between August 1, 2025 and December 31, 2025, with interest, on or before Monday, March 2, 2026 at 5:00 p.m. Central Time. This plan shall include a calculation of the total amount overcollected, a narrative description detailing Black Hills' plan to refund ratepayers and the justification for Black Hills' approach to refunding ratepayers, as well as any other supporting information and exhibits necessary for the Commission's review of the refund plan.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Choice Gas Program Settlement Agreement filed by Black Hills Nebraska Gas, LLC, the Nebraska Public Advocate, and WoodRiver Energy, LLC in this matter, shall be approved in its entirety.

IT IS FURTHER ORDERED that the PA Settlement Agreement filed by Black Hills Nebraska Gas, LLC and the Nebraska Public Advocate in this matter, shall be

³² PA Settlement Agreement at 24; *Id.*, Exhibit D.

³³ Neb. Rev. Stat. § 66-1838 (10)(b).

³⁴ PA Settlement Agreement at 24-25.

³⁵ *Id.*

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approved in its entirety with final rates to be implemented and become effective on January 1, 2026.

IT IS FURTHER ORDERED that Black Hills Nebraska Gas, LLC's revised tariff sheets filed with the settlement agreements, shall be implemented and become effective January 1, 2026.

IT IS FINALLY ORDERED that Black Hills Nebraska Gas, LLC, shall file with the Commission no later than Monday, March 2, 2026 at 5:00 p.m. Central Time a plan to refund overcollected interim rates as described above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 9th day of December, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

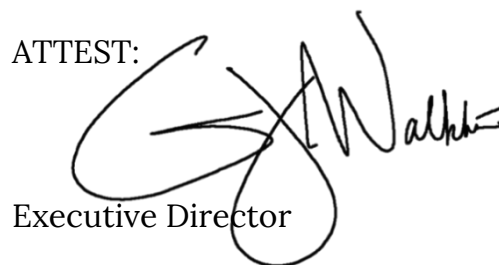






Chair

ATTEST:



Executive Director