

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

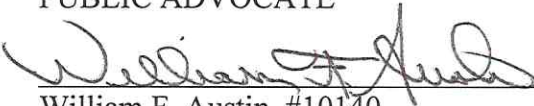
IN THE MATTER OF THE	)	Application No. NG-109
APPLICATION OF BLACK HILLS	)	
NEBRASKA GAS, LLC d/b/a	)	<b>NOTICE OF FILING</b>
BLACK HILLS ENERGY, RAPID CITY,	)	<b>OF</b>
SOUTH DAKOTA, SEEKING	)	<b>REPORT CONTAINING PUBLIC</b>
APPROVAL OF A GENERAL RATE	)	<b>ADVOCATE'S REVIEW OF BHE'S</b>
INCREASE.	)	<b>INTERIM RATE REFUND PLAN</b>

The Public Advocate hereby submits the attached Report containing a summary of the review of the Interim Rate Refund Plan filed by Black Hills Energy in the above-captioned docket on March 31, 2021. Eight (8) copies of the Report plus an electronic copy in PDF format and a copy in Microsoft Word are being submitted herewith in accordance with 291 NAC 9-004.12. Electronic and/or hard copies are being provided, as appropriate, in accordance with the Service List.

WHEREFORE the Public Advocate requests the Commission to give consideration to the recommendations contained within the Report. At this time, the Public Advocate does not believe there is any need to hold a hearing on the proposed Interim Rate Refund Plan.

DATED this 23rd day of April, 2021.

PUBLIC ADVOCATE

By:   
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Public Advocate's **NOTICE OF FILING OF REPORT CONTAINING PUBLIC ADVOCATE'S REVIEW OF BHE'S INTERIM RATE REFUND PLAN** was served electronically on this 23rd day of April, 2021, upon the following:

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William F. Austin

**Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy**  
**Docket No. NG-109**  
**Review of March 31, 2021 Interim Refund Plan**

**RECEIVED**

*By Deena Ackerman at 10:48 am, Apr 23, 2021*

## **EXECUTIVE SUMMARY**

On March 31, 2021, Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy (BHE or “Company”) filed its Interim Refund Plan (“Refund Plan”) subsequent to the Order Approving the Stipulation and Settlement Agreement entered on January 26, 2021, in Application No. NG-109. Based upon Blue Ridge’s review of the Company’s submitted Refund Plan, Blue Ridge found that BHE’s proposed refund plan to refund excess charges accumulated during the period of interim rates is reasonable. Blue Ridge recommends that the Commission accept the Company’s interim refund plan with two modifications. First, as agreed to by the Company in response to the PA’s clarification queries, undistributed refunds for customers who cannot be located will be held for 12 months and credited to all GCA customers and not to just residential GCA customers. Second, the Communication notice to be included with customer bills should be modified to be more specific. Blue Ridge suggests this revised language: “As part of the regulatory rate review approved by the Nebraska Public Service Commission on January 26, each customer will receive an individual, one-time rate refund credited to their June 2021 bill. The refund represents the difference between the final rates and the interim rates in place during the period from September 1, 2020, through February 28, 2021. For more details, visit [blackhillsenergy.com/reliableNE](http://blackhillsenergy.com/reliableNE).”

## **BACKGROUND**

### **Joint Stipulation and Agreement**

On January 26, 2021, the Nebraska Public Service Commission (“Commission”) approved the Joint Stipulation and Agreement of Settlement (October 28, 2020) in BHE’s general rate case in Docket No. NG-109.

The Commission order approved these items:

- Increase in general retail gas rates of \$10,688,337
- One set of system-wide rates with a declining block rate structure with the first tier of rates adjusted to reflect the lower revenue requirements agreed to in the Stipulation

The rate structure consists of two tiers of distribution rates and a fixed customer charge. BHE will also adopt one commercial class statewide. The parties agreed to the following customer charges and rates.

Residential Customer Charge	\$15.45 per month
Residential Distribution Charge–Tier 1	\$.50858/therm for the first 20 therms
Residential Distribution Charge–Tier 2	\$.15000/therm over 20 therms
Commercial Customer Charge	\$28.43 per month
Commercial Distribution Charge–Tier 1	\$.50858/therm for the first 40 therms
Commercial Distribution Charge–Tier 2	\$.15000/therm for the first 40 therms

The Commission expressed concern that the declining block rate structures in general may have the potential to disproportionately impact certain types of user classes, including low-use customers. The Commission noted BHE committed in the Stipulation to continue to conduct research regarding low-use customers, to share those results with the PA and the

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Commission, and to incorporate its analysis in its rate design in its next rate review proceeding.

The Commission notes that the adoption of one commercial class statewide may not adequately reflect the usage patterns of commercial users. The Commission also expects that future rate filings will include a close analysis of the bill impacts resulting from a proposed rate structure and a demonstration that bill impacts are not disproportionately affecting groups of customers.

The parties agreed to these other items:

- The SSIR mechanism will be renewed for a period of five years.
- All investments in the farm tap program will be included in rate base, including the amounts over the original \$4 million cap.
- Capital investments that are substantially complete and will be in service by the end of 2020 will be included in rate base.
- BHE will include only costs of actual employee positions filled as of December 31, 2020.
- Volatile non-plant ADIT items will not be included in rate base.
- The Company may extend the High Efficiency Appliance Tool (HEAT) program statewide. BHE will defer collection of the HEAT Surcharge in Rate Areas 1, 2, and 3 until September 2021 when such customers would be eligible to benefit from the program. The HEAT surcharge for Rate Area 5 customers is \$.39 per month through December 31, 2021.
- 100% of employee incentive program costs and 50% of the corporate incentive plan costs are allowed.
- SERP will be frozen at current levels with any new SERP costs in the future borne by BHE.
- Directors and Officers Liability Insurance will be split 50-50 between ratepayers and shareholders.
- Line locating costs, incurred due to the ALLO project in Lincoln and recorded to a regulatory asset account, will be recovered from ratepayers living in Lincoln at a rate of \$.43 per month.

The approved Settlement also specified agreement that the interim rates implemented on September 1, 2020, and the final rates approved by the Commission are subject to refund with interest. BHE requested and was granted leave to file a refund plan for the balance on April 1, 2021. The Commission ordered to include the following items in the refund plan:

- Calculation of the total amount over collected
- Narrative description detailing BHE's plan to refund ratepayers
- Justification for BHE's approach to refunding ratepayers
- Supporting information and exhibits necessary for the Commission's review of the refund plan<sup>1</sup>

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<sup>1</sup> NG-109 Order Approving Stipulation and Settlement Agreement (January 26, 2021).

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**Interim Refund Plan**

On March 31, 2021, BHE filed its Interim Refund Plan subsequent to the Order Approving the Stipulation and Settlement Agreement entered on January 26, 2021, in Application No. NG-109. The filing included these items:

- BH Nebraska Gas Interim Rate Refund Plan
- Exhibit 1 – Refund Summary
- Exhibit 2 – Refund Plan Interest Calculation
- Exhibit 3 – Refund by Rate Area
- Exhibit 4 – Refund Calculation Based on Approved Rates
- Exhibit 5 – Other Refund Items – TCJA
- Exhibit 6 – Other Refund Items – Recovery Mechanism Reconciliations
- Exhibit 6A – Farm Tap Safety Program Reconciliation
- Exhibit 6B – Pipeline Replacement Reconciliation
- Exhibit 6C – SSIR Reconciliation

The following tables compare the interim (effective September 1, 2020) and final rates (effective March 1, 2021).

**Table 1: Comparison of Interim and Final Rates—Residential**

<b>Residential</b>	<b>Interim Rates (9/1/20)</b>	<b>Final Rates (3/1/21)</b>
Monthly Customer Charge	\$15.45	\$15.45
Distribution Charge (per therm)		
First Tier	\$0.59960	\$0.50858
Second Tier	\$0.15000	\$0.15000

**Table 2: Comparison of Interim and Final Rates—Commercial**

<b>Commercial</b>	<b>Interim Rates (9/1/20)</b>	<b>Final Rates (3/1/21)</b>
Monthly Customer Charge	\$31.10	\$28.43
Distribution Charge (per therm)		
First Tier	\$0.59960	\$0.50858
Second Tier	\$0.15000	\$0.15000

The Company proposes to refund an estimated total of \$7.3 million, which includes the difference of the interim and final rates and five additional adjustments. The final amount to be refunded cannot be completely determined until all customer data through February 28, 2021, is available (estimated to be during April 2021).<sup>2</sup>

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<sup>2</sup> Refund Plan, page 7.



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The following table summarizes the components that make up the estimated \$7.3 million to be refunded.

**Table 3: Summary of Items Subject to Refund**

Items Subject to Refund	Total Amount
Interim Rates	
• Customer Charge & HEAT	\$(518,866)
• Distribution-Tier 1	(3,078,524)
TCJA	
• EDFIT Credit	(2,948,208)
• June 2020	(168,579)
Recovery Mechanism Reconciliations	
• Farm Tap	12,311
• PRC	(70,360)
• SSIR	(502,684)
Interest through May 31, 2021	(64,727)
<b>Total Refund</b>	<b>\$(7,339,716)</b>

Blue Ridge had the following observations:

- Customer Charge
  - Interim customer charges were effective September 1, 2020. All customers were assessed a prorated portion of the increased Customer Charge based on a “cycle” billing system.
  - The over-collection is the difference between the interim and final customer charge.<sup>3</sup>
- Distribution-Tier 1
  - The September 1, 2020, interim rates were applied to all volumes consumed under various distribution rate blocks during the month, and any adjustments to consumption by customers during that month will be refunded.
  - The change from Interim Rates to Final Rates is prorated on a straight-line basis by cycle.
  - The refund rate was multiplied by the volumes to determine the refund amount.<sup>4</sup>
  - In response to the PA’s clarification queries regarding the proration process design and how the that design is understood in relation to volumetric rates, the Company responded the refund for the volumetric rate is applied to usage for September through February. Because of cycle billing, some of the

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<sup>3</sup> Refund Plan, page 8.

<sup>4</sup> Refund Plan, page 8.

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February usage is billed in March, which is why Exhibit 4 shows March usage; it is actually the February usage billed in March.<sup>5</sup>

- Tax Cuts Jobs Act (TCJA) Excess Deferred Federal Income Tax (EDFIT) Credit
  - The EDFIT of \$(2,948,208) credit is consistent with the Stipulation.<sup>6</sup>
  - The June 2020 amount represents one additional month of TCJA refund due to the delay in filing the Company's rate review. The Company originally planned to file its rate review on May 1, 2020. The filing was delayed until June 1, 2020, due to COVID.<sup>7</sup>
  - The Company explained that the original 2020 TCJA credit was prorated because of interim rates. Rather than a TCJA credit for a full calendar year, the Company calculated the TCJA credit for seven months because it assumed interim rates would be effective August 1. To calculate the adjustment included in the refund plan, the Company first recalculated the TCJA credit for eight months and then subtracted the original seven month credit.<sup>8</sup>
  - The TCJA-EDFIT credit was allocated based on customer count from Settlement Exhibit 4.<sup>9</sup>
- Farm Tap
  - In lieu of a separate reconciliation filing (NG-0090), the under-collected amount of \$12,231 for the period ended August 31, 2020, is included in the Refund Plan.<sup>10</sup>
- Pipeline Replacement Charge (PRR)
  - In lieu of a separate reconciliation filing (NG-0074), the over-collected amount for 2020 of \$(70,360) is included in the Refund Plan.<sup>11</sup>
- System Safety and Integrity Rider (SSIR)
  - In lieu of a separate reconciliation filing (NG-0078), the over-collected amount of \$(502,684) is included in the Refund Plan.<sup>12</sup>
- Interest
  - Consistent with the Commission's approval of the refund plan in NG-0061 and consistent with past practices, the Company has used the statutory judgment rate.<sup>13</sup>
  - The Judgment Interest Rate from the Nebraska Judicial Branch applied in the Company's refund calculation ranges from 2.167% to 2.091%.<sup>14</sup>

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<sup>5</sup> Responses to Public Advocate's Clarification Queries (April 19, 2021), #2.

<sup>6</sup> Refund Plan, page 9, and NG-109 Stipulation and Settlement (October 28, 2020), page 25.

<sup>7</sup> Refund Plan, page 9.

<sup>8</sup> Responses to Public Advocate's Clarification Queries (April 19, 2021), #6.

<sup>9</sup> Refund Plan, Exhibit 5.

<sup>10</sup> Refund Plan, page 10.

<sup>11</sup> Refund Plan, page 10.

<sup>12</sup> Refund Plan, page 10.

<sup>13</sup> NG-61 Order Approving Refund Plan (November 30, 2010), pae 2.

<sup>14</sup> Refund Plan, Exhibit 2.



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- Interest is calculated on a monthly basis and applied on the full month balance regardless of billing date. The Company's methodology applies interest on interest.<sup>15</sup> The Company's application of interest is in the customer's favor.
- Interest will be paid through May 31, 2021, under the assumption that the Commission will review and approve the Refund Plan in time for refunds to commence by June 1, 2021.<sup>16</sup>
- Refund Logistics
  - Each customer during the interim rate period will receive a customer-specific, one-time bill credit (beginning June 1, 2021).
    - The process is consistent with prior refunds.<sup>17</sup>
    - The Communication notice proposed states that the bill message language will indicate: "As part of the regulatory rate review approved by the Nebraska Public Service Commission on Jan. 26, a one-time interim rate refund will be issued on customers' June 2021 bill. For more details, visit [blackhillsenergy.com/reliableNE](http://blackhillsenergy.com/reliableNE)."<sup>18</sup>
    - The communications notice to customers is a bit vague. Blue Ridge recommends that the notice be modified to be more specific. Blue Ridge suggests this revised language: "As part of the regulatory rate review approved by the Nebraska Public Service Commission on January 26, each customer will receive an individual, one-time rate refund credited to their June 2021 bill. The refund represents the difference between the final rates and the interim rates in place during the period from September 1, 2020, through February 28, 2021. For more details, visit [blackhillsenergy.com/reliableNE](http://blackhillsenergy.com/reliableNE)."<sup>19</sup>
  - Former customers will receive their customer-specific refunds by check.
    - The interim refund plan stated that undistributed refunds for customers who cannot be located will be held for 12 months and credited to the residential GCA.<sup>20</sup>
    - In response to the PA's clarification queries, the Company stated that it would agree to credit any undistributed funds to all CGA customers.<sup>21</sup> Blue Ridge recommends modifying the Refund Plan, accordingly.
    - Checks printed for customers who cannot be found will be remitted per the Nebraska escheat process.
    - No check for \$2 or less will be issued<sup>22</sup>
  - Internal Controls and Audit

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<sup>15</sup> Responses to Public Advocate's Clarification Queries (April 19, 2021), #3 and #4.

<sup>16</sup> Refund Plan, page 11.

<sup>17</sup> Refund Plan, page 12.

<sup>18</sup> Refund Plan, page 12.

<sup>19</sup> Refund Plan, page 12.

<sup>20</sup> Refund Plan, page 11.

<sup>21</sup> Responses to Public Advocate's Clarification Queries (April 19, 2021), #5.

<sup>22</sup> Refund Plan, page 11.

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- The Company explained that interim rate calculations are not subject to review as part of Sarbanes-Oxley 404 or 302, and audit does not review the calculations or rate design. The Company does have Sarbanes-Oxley controls in place surrounding assurance that Company financial statements and disclosures are materially stated. Specifically, as it relates to Regulatory Rulings, the Company reviews rate orders resulting from rate cases or other regulatory activities to determine whether any regulatory assets or liabilities are to be established, taking into consideration, among other things, any circumstances that would cause a deferral to be reversed. In addition, a control exists to ensure the customer rates (i.e., customer charge, usage, gas cost adjustments), which include interims, are appropriately updated and applied within the Customer Information System.<sup>23</sup>

## **CONCLUSION AND RECOMMENDATIONS**

In conclusion, Blue Ridge found that BHE’s proposed refund plan (based on the information submitted) to refund excess charges accumulated during the period of interim rates is reasonable. Blue Ridge recommends that the Commission accept the Company’s interim refund plan with two modifications. First, as agreed to by the Company in response to the PA’s clarification queries, undistributed refunds for customers who cannot be located will be held for 12 months and credited to all GCA customers and not to just residential GCA customers. The second modification is that the Communication notice to be included with customer bills should be modified to be more specific. Blue Ridge suggests this revised language: “As part of the regulatory rate review approved by the Nebraska Public Service Commission on January 26, each customer will receive an individual, one-time rate refund credited to their June 2021 bill. The refund represents the difference between the final rates and the interim rates in place during the period from September 1, 2020, through February 28, 2021. For more details, visit [blackhillsenergy.com/reliableNE](http://blackhillsenergy.com/reliableNE).”

## **SUPPORTING DOCUMENTS**

1. Application No. NG-109 Order Approving Stipulation and Settlement Agreement (January 26, 2021)
2. Application No. NG-109, Joint Stipulation and Agreement of Settlement between Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy and the Public Advocate of Nebraska (October 28, 2020)
3. Application No. NG-109, Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy, Interim Refund Plan (March 31, 2021) and supporting Excel files
4. Responses to Public Advocate’s Clarification Queries (April 19, 2021)
5. Response to Public Advocate’s Clarification Query Interest (April 16, 2021)
6. NG-61 Order Approving Refund Plan (November 30, 2010)

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<sup>23</sup> Responses to Public Advocate’s Clarification Queries (April 19, 2021), #1.