

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) APPLICATION NO. NG-124
CITY, SOUTH DAKOTA, SEEKING)
APPROVAL OF A GENERAL RATE)
INCREASE)

REBUTTAL TESTIMONY OF KENNETH L. CROUCH

Senior Manager of Tax

ON BEHALF OF BLACK HILLS NEBRASKA GAS, LLC

Date: September 15, 2025

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TABLE OF ABBREVIATIONS AND ACRONYMS

ADIT	Accumulated Deferred Income Taxes
BH Nebraska Gas or Company	Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy
DDIT	Deficient Deferred Income Taxes
DTA	Deferred Tax Asset
DTL	Deferred Tax Liability
EDIT	Excess Deferred Income Taxes
FERC	Federal Energy Regulatory Commission
GCA	Gas Cost Adjustment

REBUTTAL TESTIMONY OF KENNETH L. CROUCH

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Kenneth L. Crouch, and my business address is 7001 Mount Rushmore Road, Rapid City, SD 57702-8752.

Q. ARE YOU THE SAME KENNETH L. CROUCH WHO FILED DIRECT TESTIMONY IN THE ORIGINAL FILING OF THE APPLICATION IN DOCKET NG-124?

A. Yes, I am.

Q. HAS THERE BEEN ANY CHANGE TO YOUR EMPLOYMENT OR QUALIFICATION SINCE DIRECT TESTIMONY WAS SUBMITTED IN THIS DOCKET?

A. No.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

A. I am testifying on behalf of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy (“BH Nebraska Gas” or “Company”).

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to present and describe BH Nebraska Gas’ rebuttal position regarding adjustments to Accumulated Deferred Income Taxes (“ADIT”) included in rate base, to support the Company’s proposed recovery method of property taxes for storage gas and the refund of Excess Deferred Income Taxes (“EDIT”).

III. ADJUSTMENTS TO ADIT IN RATE BASE

Q. PLEASE DESCRIBE THE PROPOSED ADJUSTMENTS TO ADIT IN RATE BASE BY THE NEBRASKA PUBLIC ADVOCATE.

A. In the Direct Testimony and Exhibits of Donna H. Mullinax on page 21, line 18 through page 22, line 13, Ms. Mullinax proposes to reduce rate base by \$13,503,293 to remove non-plant book-tax differences because they are not directly related to a component of rate base and these expense-related items tend to be volatile in nature.

Q. WERE THE ITEMS MS. MULLINAX PROPOSES TO REMOVE FROM RATE BASE INCLUDED IN THE PRIOR RATE PROCEEDING?

A. Yes. While not precedential, BH Nebraska Gas did agree in settlement to remove some non-plant related ADIT from rate base that was more volatile in nature; however, some non-plant related ADIT was included in rate base. The non-plant related ADIT included in the final rate base were not volatile in nature. BH Nebraska Gas included the same non-plant related ADIT in the current proceeding that were considered non-volatile in the prior rate proceeding¹.

Q. WHY IS IT APPROPRIATE TO INCLUDE NON-PLANT RELATED ADIT IN RATE BASE?

A. Including all ADIT that is related to an item in rate base, or a revenue or expense included in cost of service, reflects the true economics of the tax impact of all items included in rate making. Referencing the example from Ms. Mullinax's testimony², bad debt expense is one cost-of-service item that has a book/tax timing difference. The

¹ Application No. NG-109.

² Direct Testimony and Exhibits of Donna Mullinax at page 22, lines 20 through 22.

1 book/tax difference arises because bad debt is typically expensed when sent to the
2 collection agency for regulatory book purposes. The Internal Revenue Code, however,
3 does not allow a deduction until the debt is considered wholly worthless, which
4 typically means that the collection agency has exhausted all collection efforts. In the
5 year the book expense is recorded but a tax deduction not yet allowed, the utility pays
6 more in cash taxes to the government than the total accrued income tax collected in
7 rates because taxable income exceeds book income. A Deferred Tax Asset (“DTA”) is
8 recorded for the future tax deduction. In the future year when the deduction occurs, the
9 utility pays less in cash taxes than the total accrued income tax collected in rates
10 because taxable income is less than book income. This is the same logic for including
11 Deferred Tax Liabilities (“DTL”) related to plant in service. Accelerated tax
12 depreciation for plant in service results in a utility paying less income taxes in the early
13 years of an asset’s life. Later, when book depreciation exceeds tax depreciation, the
14 earlier tax savings are re-paid to the government. Since the government does not charge
15 interest on the initial tax savings that are repaid later in an asset’s life, the tax savings
16 represent an interest free loan and customers receive a rate base reduction to reflect the
17 cost-free capital provided by the initial tax savings. In the bad debt example above,
18 BH Nebraska Gas pays more income taxes when bad debts are initially accrued. Later,
19 when the bad debt is deductible for tax purposes, BH Nebraska Gas pays less income
20 taxes. This represents a reduction to the total interest free loan and therefore it is
21 appropriate to include the DTA in rate base.

1 Q. **HOW HAVE OTHER COMMISSION'S RULED ON THIS MATTER?**

2 A. In Kern River Gas Transmission Company, Federal Energy Regulatory Commission
3 ("FERC") Docket No. RP07-274-000 (October 19, 2006) page 92, paragraph 229, a
4 similar tax issue was litigated. In that case, FERC addressed ADIT assets. It
5 concluded:

6 There is a second type of timing difference that can have the
7 opposite effect. It is possible that some accounting entries will
8 decrease expenses or increase income for IRS purposes faster
9 than would be the case for accounting purposes. In this case the
10 cash flow from the tax allowance embedded in the regulated
11 entity's rates is less than the income tax payments that are
12 generated by the higher income. When the regulated entity pays
13 for an expense earlier than would be under the Commission's
14 regulatory accounting system, it is committing more funds to the
15 business. The difference is therefore capitalized and added to the
16 rate base. The difference in the timing that results is capitalized
17 and added to the rate base to allow a somewhat higher return on
18 the additional funds that have need committed to the enterprise.
19 As the accounting entries for these expenses are entered (usually
20 allowance of funds used during construction), the difference in
21 timing is reversed, the short-term addition to the rate base
22 decreases, and return drops. This timing difference is reflected
23 as an ADIT debit, or regulatory asset, in Account No. 190.

24
25 Although this FERC decision is not binding on other Commissions, it does provide an
26 excellent analysis of the issue. Furthermore, FERC's rate manual³ states ADIT
27 associated with other cost and revenues affecting the cost of service are also deducted
28 from rate base. While the manual references deducted from rate base, the Kern River
29 Gas Transmission Company decision explicitly includes ADIT which is an addition to
30 rate base. This is typically how Black Hills Corporation determines ADIT to be
31 included in rate base in all its other jurisdictions including: Arkansas, Colorado, FERC,

³ Cost-of-Service Rates Manual, June 1999, page 11.

1 Iowa, Kansas, South Dakota and Wyoming, In all these jurisdictions, ADIT is
2 generally included in rate base if it is related to an item in rate base, or is associated
3 with a revenue or expense included in the cost of service.

4 **Q. ARE ALL THE ITEMS MS. MULLINAX PROPOSES TO REMOVE FROM**
5 **RATE BASE NON-PLANT RELATED?**

6 A. No. There are three items which are related to the protected property EDIT which is
7 directly related to plant in service included in rate base. When the federal tax rate was
8 reduced from 35% to 21% in 2017, the ADIT on the book and tax differences related
9 to plant in service was remeasured at the new rate and the excess ADIT was reclassified
10 into a regulatory liability account to return to customers. The regulatory liability for
11 protected property EDIT is grossed up for tax purposes. The offset to the tax gross-up
12 is included in three DTAs. As shown on Rebuttal Exhibit SKJ-6, Schedule C-1, these
13 accounts are:

- 14 • 190300.DT2092 FAS 109 Other (Line 7) - \$3,562,635;
- 15 • 190300.DT2095 DT Asset Tax on Tax w Fed Gross Up (Line 8) - \$241,386;
- 16 and
- 190998.DT DTA LT – Svc Co FAS 109 Other (line 13) - \$313,008. These
amounts are plant-related and should be excluded from Ms. Mullinax's
proposed rate base adjustment.

1 **Q. ARE THERE ITEMS OF ADIT THAT BH NEBRASKA GAS AGREES WITH**
2 **MS. MULLINAX TO REMOVE?**

3 A. Yes. There are two items of Deficient Deferred Income Taxes (“DDIT”) that the
4 Company agrees to remove consistent with the treatment in the prior rate proceeding.
5 These accounts are shown in Rebuttal Exhibit SKJ-6, Schedule C-1:

- 6 • 254015.DT1525 State DDIT (Line 19) - \$5,436,033; and
- 7 • 254015.DT5003 Non-Protected Non-Property DDIT (Line 21) - \$2,062,047.

8 **Q. OF THE \$13.5M MS. MULLINAX PROPOSES TO REMOVE FROM RATE**
9 **BASE, PLEASE PROVIDE A LIST OF THE NON-PLANT ITEMS BH**
10 **NEBRASKA GAS BELIEVES SHOULD REMAIN AFTER THE**
11 **ADJUSTMENTS DESCRIBED ABOVE.**

12 A. The table below at lines 2 through 9 summarizes the list of non-plant that are included
13 in Ms. Mullinax’s proposed \$13.5M rate base adjustment that should remain in rate
14 base. Ms. Mullinax’s reasoning is that these items should be excluded because, “(t)he
15 book-tax differences that give rise to these non-plant-related ADIT items are expense-
16 related and tend to fluctuate, in contrast to plant-related items, which accumulate
17 predictably over the long term.”⁴ It should be noted that the non-plant items BH
18 Nebraska Gas is proposing to include in rate base grew at a nearly identical rate as the
19 plant-related ADIT when comparing the current proceeding to the prior proceeding.

⁴ Direct Testimony and Exhibits of Donna H. Mullinax at page 23, lines 7 through 9.

Table KLC-1 – Summary of Non-Plant ADIT

Line	Non-Plant ADIT	Prior Proceeding	Current Proceeding	% Change
1	DT1000 - Vacation	\$ 167,440	\$ 219,524	
2	DT1010 - Bad Debt Reserve	775,963	1,393,678	
3	DT1020 - Employee Group Insurance	85,292	87,008	
4	DT1030 - Bonus	269,758	315,473	
5	DT1050 - Workman's Comp	179,287	187,625	
6	DT3010 - Performance Plan	140	0	
7	DT3076 - Line Extension Dep Gas	(1,040)	(111)	
8	DT4466 - PUC Fees	-	685,784	
9		\$ 1,476,840	\$ 2,888,981	95.62%
10				
11	Plant Related ADIT			
12	DT4063 - Accumulated Depreciation	\$ (43,053,555)	\$ (86,733,381)	
13	DT1059 - Accumulated Depreciation - State	(9,591,641)	(17,164,194)	
14		\$ (52,645,195)	\$(103,897,575)	97.35%

IV. RECOVERY OF STORED GAS COSTS

Q. DO YOU AGREE TO MS. MULLINAX'S PROPOSAL TO RECOVER THE PROPERTY TAXES RELATED TO STORED GAS THROUGH THE GAS COST ADJUSTMENT ("GCA")?

A. No. The GCA mechanism allows natural gas utilities to adjust the price of gas charged to consumers to reflect the actual cost of purchasing and transporting natural gas. This adjustment is necessary because the wholesale price of natural gas is unregulated and subject to market fluctuations. Property taxes are not a component of the price of gas charged to customers. Because property taxes are not volatile, they are not subject to market fluctuations, and therefore should be a component of base rates.

1 **V. EDIT REFUND**

2 **Q. DO YOU AGREE WITH MS. MULLINAX'S RECOMMENDATION ON THE**
3 **REFUND OF STATE EDIT?**

4 A. Yes. Ms. Mullinax recommended that the Company's proposal to refund \$7,365,162
5 of state EDIT over 36 months through the State Assessment Surcharge was not
6 unreasonable and should be adopted by the Commission.

7 **VI. CONCLUSION**

8 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

9 A. Yes.

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

I, Kenneth L. Crouch, being first duly sworn on oath, depose and state that I am the witness identified in the foregoing prepared testimony and I am familiar with its contents, and that the facts set forth are true to the best of my knowledge, information and belief.


Kenneth L. Crouch

Subscribed and sworn to before me this 5th day of September, 2025.




Notary Public

My Commission Expires:

My commission expires June 22, 2029