

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 KRIS J. PONTIOUS

Senior Manager of Compensation, Payroll, and HR Regulatory

ON BEHALF OF BLACK HILLS NEBRASKA GAS, LLC

Date: September 15, 2025

TABLE OF CONTENTS

I. INTRODUCTION 1

II. PURPOSE OF TESTIMONY..... 1

III. RECOVERY FOR VARIABLE COMPENSATION..... 3

IV. REBUTTAL OF PA WITNESS MS. MULLINAX REGARDING
SEVERANCE EXPENSE 8

V. REBUTTAL OF PA WITNESS MS. MULLINAX REGARDING
EMPLOYEE RECOGNITION PROGRAMS..... 13

VI. CONCLUSION..... 14

TABLE OF ABBREVIATIONS AND ACRONYMS

AIP	Annual Incentive Plan
BH Nebraska Gas or Company	Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy
BHC	Black Hills Corporation
BHSC	Black Hills Service Company, LLC
Commission	Nebraska Public Service Commission
EPS	Earnings Per Share
LTIP	Long-Term Incentive Plan
O&M	Operations and Maintenance
PA	Nebraska Public Advocate
STIP	Short-Term Incentive Plan

REBUTTAL TESTIMONY OF KRIS J. PONTIOUS

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Kris J. Pontious. My business address is 7001 Mount Rushmore Road, Rapid City, South Dakota 57702.

Q. ARE YOU THE SAME KRIS J. PONTIOUS 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 in response to the adjustments made by the Nebraska Public Advocate (“PA”) regarding incentive compensation and severance paid by BH Nebraska Gas to its employees in addition to expenses related to employee recognition programs. My testimony rebuts those adjustments because they are contrary to the principles of utility

1 regulation which require a utility be allowed a reasonable opportunity to recover actual
2 costs prudently incurred in providing service to its customers. The recommended
3 adjustments of the PA related to incentive compensation, severance and employee
4 recognition programs should be rejected because those employee payroll costs are
5 legitimate and prudent costs incurred to attract and retain Company employees.

6 **Q. WHICH PA WITNESS DOES YOUR REBUTTAL TESTIMONY DISCUSS?**

7 A. My rebuttal testimony addresses and rebuts the adjustment recommendations by PA
8 witness Ms. Donna H. Mullinax.

9 **Q. WHAT REASONS DOES THE PA PRESENT AS THE BASIS FOR ITS**
10 **RESPECTIVE RECOMMENDED ADJUSTMENTS TO DECREASE**
11 **INCENTIVE COMPENSATION EXPENSES?**

12 A. PA witness Ms. Mullinax recommends accepting 100% of the Company's Annual
13 Incentive Plan ("AIP") paid to employees below the Director-level. Ms. Mullinax
14 recommends decreasing incentive compensation expenses by 30% for BH Nebraska
15 Gas' Short-Term Incentive Plan ("STIP"), and removes 100% of BH Nebraska Gas'
16 Long-Term Incentive Plan ("LTIP"). The PA contends that those incentive
17 compensation expenses are tied to financial metrics and solely benefit shareholders and
18 that employees eligible for STIP and LTIP have more influence on Earnings Per Share
19 ("EPS").¹

20 The PA does not provide credible evidence that the disallowed costs were not
21 prudently incurred.

22

¹ See Direct Testimony and Exhibits of Donna H. Mullinax at pages 36 through 40.

1 **III. RECOVERY FOR VARIABLE COMPENSATION**

2 **Q. PLEASE EXPLAIN WHY THE PA’S ADJUSTMENTS DO NOT ALLOW BH**
3 **NEBRASKA GAS A REASONABLE OPPORTUNITY TO RECOVER**
4 **ACTUAL COSTS PRUDENTLY INCURRED IN CONNECTION WITH**
5 **PROVIDING UTILITY SERVICE TO ITS CUSTOMERS.**

6 **A.** The impact of the adjustments to incentive compensation made by the PA do not allow
7 BH Nebraska Gas a reasonable opportunity to recover its prudently incurred employee
8 compensation costs. The additional impact of the PA’s recommendations on BH
9 Nebraska Gas would also have a longer-term impact on the Company’s ability to
10 continue providing natural gas services to its customers.

11 Several reasons supporting why the Nebraska Public Service Commission
12 (“Commission”) should reject the PA’s recommendations on incentive compensation
13 and why the Commission should approve BH Nebraska Gas’ rate Application are
14 provided below:

15 (1) Attracting and retaining a qualified workforce is essential for BH
16 Nebraska Gas to provide safe, reliable, and efficient service to its
17 customers.

18 (2) The cost to fairly and competitively compensate a qualified workforce
19 to BH Nebraska Gas is reasonable, prudently incurred, and a necessary
20 cost of providing service to customers, and it should be included in the
21 utility's cost of service in setting rates.

22 (3) The PA does not provide credible evidence that contests the
23 compensation support provided by BH Nebraska Gas. My direct

1 testimony demonstrates that the total costs incurred by BH Nebraska
2 Gas to compensate its employees, including incentive compensation, are
3 similar to the total compensation paid by other companies, including
4 other utility companies, for similar positions. No evidence was
5 presented by the PA that shows the total compensation paid to
6 employees by BH Nebraska Gas is imprudent or unreasonable based
7 upon what the market requires paying employees for similar positions.
8 Instead of evidence, PA's witness provides opinion and indicates
9 anything tied to financial metrics solely benefits shareholders.

10 (4) Notwithstanding the lack of evidence related to incentive compensation,
11 the PA recommends disallowance of that portion of the total
12 compensation paid to employees that is tied to financial measures.

13 Accordingly, for all the reasons listed above, the costs incurred by BH Nebraska
14 Gas to compensate its employees are reasonable and should be recovered in the cost of
15 service used to set the utility's rates regardless of whether a portion of the compensation
16 is based upon company financial metrics.

17 **Q. WHY IS FULL RECOVERY OF INCENTIVE COMPENSATION**
18 **APPROPRIATE?**

19 A. Not only is the incentive compensation a prudently incurred and necessary expense for
20 BH Nebraska Gas to remain competitive and retain talent, but incentive compensation
21 with financially based metrics also directly benefits customers. Achieving healthy
22 financial performance delivers tangible and measurable benefits to customers, not just
23 shareholders. Financial health directly supports the ability to:

- 1 • Invest in infrastructure that enhances safety, reliability, and service
- 2 quality;
- 3 • Maintain stable rates by avoiding the need for emergency or frequent
- 4 rate filings;
- 5 • Attract and retain skilled employees, ensuring continuity of service and
- 6 operational excellence;
- 7 • Access capital at favorable rates, which lowers the cost of financing
- 8 system improvements, a savings that ultimately benefits customers; and
- 9 • Drive operational efficiency, which reduces unnecessary costs and
- 10 improves service delivery.

11 Incentive compensation tied to financial performance aligns employee behavior
12 with these outcomes, encouraging a culture of accountability, cost control, and
13 continuous improvement. When employees are motivated to meet financial goals, they
14 are also working to ensure the Company operates efficiently and sustainably, which
15 directly benefits customers through better service and long-term cost containment.

16 While there are many, one specific example of how financial metrics in
17 incentive compensation plans directly benefit customers was the impact of Winter
18 Storm Uri in 2021. Black Hills Corporation's ("BHC's) financial strength leading up
19 to Winter Storm Uri allowed it to access and secure necessary financing to ensure
20 adequate gas supplies for continued and uninterrupted service to customers. BHC's
21 financial strength and solid credit rating, supported by employees achieving financial
22 metrics, allowed the Company to purchase and provide the natural gas needed during
23 extreme cold temperatures that occurred during unprecedented, extremely high prices.

1 Therefore, the claim that financial-based incentive compensation provides no
2 benefit to customers is overly narrow and fundamentally flawed. BH Nebraska Gas
3 respectfully urges the Commission to recognize that a well-structured incentive
4 program-one that includes financial metrics-is a prudent and effective tool for
5 delivering value to both customers and shareholders.

6 Like the Commission, BHC must balance the Company's interests with the
7 customers' interests and employees' expectations. BH Nebraska Gas asserts that its
8 incentive compensation plan contains factors which create a natural check and balance
9 system. Without its financial metrics applied to employees managing budgets, there
10 could be an incentive for BHC and BH Nebraska Gas to invest more than is necessary
11 in system reliability or customer services assets. At the same time, appropriate levels
12 of capital must be spent to meet operational objectives. The effective use of capital is
13 a balancing factor for reliability and customer metrics.

14 BHC's compensation packages split total compensation into fixed and variable
15 components in a manner designed to create an incentive for employees to achieve goals
16 important to customers and shareholders. I recommend that the Commission reconsider
17 its compensation policy and reject the PA's recommendations by permitting BH
18 Nebraska Gas to recover the proposed incentive compensation costs (i.e., AIP, STIP,
19 and LTIP) in its cost of service.

1 **Q. HOW DOES BH NEBRASKA GAS' INCENTIVE COMPENSATION PLAN**
2 **BENEFIT CUSTOMERS?**

3 A. BH Nebraska Gas demonstrated that its incentive compensation plan benefits its
4 customers in several ways. It plays a key role in helping BH Nebraska Gas remain a
5 well-run natural gas utility that provides safe, reliable high-quality services to its
6 customers at just and reasonable costs. For example, total compensation paid to
7 employees (fixed base salary plus variable incentive compensation) is in line with the
8 total compensation that the market pays similar employees. Thus, the total
9 compensation is reasonable based on that comparison.

10 The fact that the incentive portion of the total compensation is variable, and the
11 variable element of pay is awarded only when the utility can justify and afford to make
12 such payments based upon meeting goals and financial performance provides an
13 indirect benefit to our customers.

14 In addition, the BHC incentive compensation plan assists in the ability to recruit
15 and retain talented employees since incentive compensation is widely prevalent in the
16 labor markets in which the utility competes for talent. Incentive compensation
17 motivates employees to achieve a variety of performance goals. Having and retaining
18 talented employees who are motivated to exceed expectations because a portion of their
19 compensation is at risk based upon how well they perform their job benefits our
20 customers because the employees have an additional incentive to do a better job in
21 serving customers. Those incentives also include service employees who are
22 responsible for raising or managing the capital needed to run BH Nebraska Gas. A

1 financial performance metric is a necessary and customary part of that incentive
2 compensation package.

3 Also, BHC's incentive plan encourages employees to work together as a team
4 to achieve a common purpose. BHC's incentive compensation plan motivates
5 employees to become more engaged in their jobs and provide higher quality service to
6 customers. That not only benefits customers, but also the communities served by the
7 utility. It also assists BHC in communicating that the success of BH Nebraska Gas
8 depends upon the performance of our employees.

9 As mentioned above, BHC's strong financial and credit rating position has
10 previously proven to be a benefit to Nebraska customers. Being able to access and
11 secure necessary financing at reasonable rates during Winter Storm Uri, BHC was able
12 to continue uninterrupted gas service to our Nebraska firm customers that would have
13 been more difficult and more expensive without its strong financial position, which is
14 directly supported by employees participating in the incentive plan with a financial
15 metric.

16 For these reasons, disallowing the financial performance component of
17 incentive compensation could have a negative impact on customers.

18 **Q. DO YOU AGREE WITH MS. MULLINAX'S CONTENTION THAT THE**
19 **FINANCIAL METRICS OF INCENTIVE COMPENSATION PLANS BENEFIT**
20 **SHAREHOLDERS AND NOT CUSTOMERS?²**

21 A. No. BH Nebraska Gas' net income is enhanced by both maximizing revenues and
22 controlling expenses through higher productivity, more careful management of

² Direct Testimony and Exhibits of Donna H. Mullinax at pages 36 through 40.

1 operations and maintenance costs, and other customer-oriented goals that improve net
2 income. Incentive compensation plans provide a benefit not only to shareholders, but
3 to the utility's customers as well.

4 The financial metrics argument is based on the incorrect theory that the
5 incentive compensation plan is designed solely to increase profits for shareholders to
6 the exclusion of more customer-oriented aims such as managing cost, focusing on
7 safety and providing quality service to our customers. Utility shareholders and
8 employees do not reap all the financial rewards of higher earnings to the detriment of
9 customers. To the extent BHC management and employees can provide more efficient
10 service, reduce the number of accidents and incidents, deliver satisfactory customer
11 service at reasonable expense and employee levels, and improve performance by
12 increasing productivity, such actions not only benefit the utility's bottom line but also
13 benefit customers.

14 It is important to point out that most, if not all, Operating and Maintenance
15 (O&M") expenses incurred by the utility, such as employee compensation expenses,
16 allowed to be included in the utility's cost of service by the Commission, benefit both
17 the utility's customers and shareholders. For example, O&M expenses relating to the
18 utility's customer call centers benefit both customers (who can obtain service,
19 disconnect service, ask questions about their service), and shareholders (who
20 eventually earn from customers being able to obtain service from the customer call
21 centers, or earn from the customers being able to receive answers from the utility so
22 they can pay for their service). Although both the customers and shareholders benefit
23 from the expenses related to the utility's customer call centers, there is no suggestion

1 by the PA that a portion or all of those O&M costs relating to the call center should be
2 borne by the shareholders and not included in the utility's cost of service. If requiring
3 shareholders to pay for any utility O&M expenses that benefited shareholders was a
4 legitimate basis for eliminating a portion of or all O&M expenses from the utility's cost
5 of service used to set rates, then the utility would have no reasonable opportunity to
6 recover the actual costs incurred to provide service to its customers. Yet, suggesting
7 that because shareholders benefit from the O&M expenses relating to a portion of the
8 incentive compensation paid to employees, it is treating those O&M expenses
9 differently from other O&M expenses by the unsupported and arbitrary reason that such
10 expenses provide a benefit to shareholders and therefore should be paid solely by the
11 shareholders. The Commission certainly has the right to disallow any O&M costs that
12 are demonstrated to be unreasonably or imprudently incurred by the utility. However,
13 if the O&M costs are reasonable and prudently incurred by the utility to provide service
14 to customers, the fact that those costs benefit both the customers and the shareholders
15 should not form the basis for disallowance of those prudently incurred costs. There is
16 simply no evidence of imprudent decision making and no logic to support such
17 disallowance because it will result in the utility having no reasonable opportunity to
18 recover prudently incurred costs to provide service to its customers.

19 **Q. WOULD THE DISALLOWANCE OF INCENTIVE COMPENSATION AS**
20 **PART OF BH NEBRASKA GAS' RATES PLACE IT AT A COMPETITIVE**
21 **DISADVANTAGE FOR TALENT?**

22 A. Yes. All BHC entities, including BH Nebraska Gas and Black Hills Service Company,
23 LLC ("BHSC") , face competition for recruiting and retaining talented employees not

1 only from other natural gas utilities, but also from other non-regulated industries.
2 Companies that are not regulated are free to factor the cost of incentive compensation
3 into their services and products. If BH Nebraska Gas is unable to do so, then it is placed
4 at a significant competitive disadvantage in attempting to recruit and retain talented
5 employees.

6 **Q. IF THE COMMISSION WERE TO DISALLOW ANY OR ALL OF THE**
7 **VARIABLE INCENTIVE COMPENSATION FROM RECOVERY OF RATES,**
8 **WOULD BH NEBRASKA GAS EMPLOYEE COMPENSATION REFLECTED**
9 **IN THE COST OF SERVICE BE BELOW THE AVERAGE MARKET**
10 **COMPENSATION LEVEL AND RESULT IN COMPENSATION LEVELS**
11 **THAT ARE NOT REASONABLE WHEN COMPARED TO THE MARKET?**

12 A. Yes. When BH Nebraska Gas employee total compensation levels are compared to
13 other similar positions, BH Nebraska Gas considers it to be market-competitive at or
14 near the 50th percentile in the market. This includes both the fixed base salary, and the
15 variable incentive pay. The elimination of the variable incentive compensation as
16 proposed by the PA incorrectly assumes that such awards are somehow not part of the
17 total compensation package and instead are in addition to the total compensation
18 package provided by BH Nebraska. To arbitrarily eliminate the variable incentive
19 compensation portion of the total employee compensation places the compensation
20 levels significantly below the median market compensation levels resulting in levels
21 included in the cost of service that are not reasonable when compared to the market.

22 BH Nebraska Gas consider a portion of the employees' total compensation as
23 variable rather than fixed to provide the employee with an incentive to perform at a

1 high level. This is the approach used by most natural gas and electric utilities. If BH
2 Nebraska Gas shifted total compensation to fixed base pay to obtain full cost recovery
3 in rates, then the employees would no longer be held to account for the strategic goals,
4 high performance and sliding scale achievement targets that are inherently part of a
5 variable incentive scorecard program, which would be detrimental to BH Nebraska Gas
6 customers.

7 **IV. REBUTTAL OF PA WITNESS MS. MULLINAX REGARDING**
8 **SEVERANCE EXPENSE**

9 **Q. WHAT ADJUSTMENTS TO SEVERANCE COSTS ARE RECOMMENDED**
10 **BY PA WITNESS MS. MULLINAX?**

11 A. Under Ms. Mullinax's severance adjustment, she recommends removing 100% of
12 allocated severance expense. Ms. Mullinax indicated that inadequate support was
13 provided by the Company on the specific circumstances of each individual who
14 received severance.³

15 **Q. DO YOU AGREE WITH MS. MULLINAX'S CONTENTION THAT**
16 **SEVERANCE EXPENSES SHOULD BE DISALLOWED?**

17 A. No. Several scenarios in which severance could be paid to employees were provided,
18 all of which are in accordance with Company policy, collective bargaining agreements
19 or other agreements between the impacted employee and the Company. Severance
20 would not be paid if it were not in the best interest of the individual and the Company.
21 Specific and detailed evidence of each individual severance remains Highly
22 Confidential. BHSC and BH Nebraska Gas affirm that each severance was prudent

³ Direct Testimony and Exhibits of Donna H. Mullinax at pages 41 through 43.

1 and followed employee termination policies and guidelines adopted by BH Nebraska
2 Gas, BHSC, and BHC. The specific individual severance agreements of named
3 employees are not needed to approve this prudently incurred severance expense. In
4 addition, the confidentiality concerns and potential for litigation outweigh the desire
5 for review of these individual severances. BH Nebraska Gas and BHSC are compelled
6 by its policies and in some cases, legal severance agreements, to protect the employee's
7 reputation, and severance terms. The important facts here are the amounts incurred by
8 BH Nebraska Gas and that those severances were prudently incurred.

9 **V. REBUTTAL OF PA WITNESS MS. MULLINAX REGARDING**
10 **EMPLOYEE RECOGNITION PROGRAMS**

11 **Q. WHAT ADJUSTMENTS TO EMPLOYEE RECOGNITION PROGRAM**
12 **COSTS ARE RECOMMENDED BY PA WITNESS MULLINAX?**

13 A. Under Ms. Mullinax's employee recognition program adjustment, she recommends
14 using an average cost over the previous four years instead of actual costs incurred.⁴

15 **Q. DO YOU AGREE WITH MS. MULLINAX'S METHOD FOR USING AN**
16 **AVERAGE OF PRIOR YEARS TO CALCULATE EMPLOYEE**
17 **RECOGNITION PROGRAM COSTS?**

18 A. Yes. Using an average cost over the last four years instead of actually incurred expenses
19 is acceptable; however, I refer to BH Nebraska Gas witness Ms. Samantha K. Johnson's
20 rebuttal testimony which reflects updated prior year expenses through a supplemental
21 attachment.

⁴ Direct Testimony and Exhibits of Donna H. Mullinax at pages 43 through 44.

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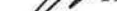
VI. CONCLUSION

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

4 A. Yes.

[illegible]

I, Kris J. Pontious, 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.


Kris J. Pontious

Subscribed and sworn to before me this 8th day of September, 2025.




Notary Public

My Commission Expires:

My commission expires June 22, 2020