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October 4, 2022

Ret. Colonel Thomas Golden  
Executive Director  
Nebraska Public Service Commission  
1200 N Street, Suite 300  
Lincoln, NE 68508

Re: *Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy  
Response to Public Advocate Report  
Commission Application No. NG-117*

Dear Ret. Col. Golden:

Enclosed for filing is our Response to the Public Advocate Report filed on behalf of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy.

Respectfully submitted,

*/s/ Douglas J. Law*

Douglas J. Law, Bar #19436  
Associate General Counsel

DL:ce

cc: [psc.naturalgas@nebraska.gov](mailto:psc.naturalgas@nebraska.gov)  
Robert Amdor  
Tyler Frost  
Kevin Jarosz

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NEBRASKA**

IN THE MATTER OF THE APPLICATION OF )  
BLACK HILLS NEBRASKA GAS, LLC d/b/a BLACK )  
HILLS ENERGY FOR APPROVAL TO IMPLEMENT ) Application No. NG-117  
A VOLUNTARY RENEWABLE NATURAL GAS )  
AND CARBON OFFSET PROGRAM )

**RESPONSE OF BLACK HILLS NEBRASKA GAS, LLC  
D/B/A BLACK HILLS ENERGY TO  
THE REPORT OF THE VRNG NEBRASKA PUBLIC ADVOCATE**

In accordance with the Order Setting Procedural Schedule entered by the Nebraska Public Service Commission (the “Commission”) in this docket on September 29, 2022, Black Hills Nebraska Gas, LLC, d/b/a Black Hills Energy, (“Black Hills Energy” or the “Company”) hereby files this Response to the report titled “**Review of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy Application for Voluntary Renewable Natural Gas Program**” (“Report”), prepared by Blue Ridge Consulting Services, Inc. and filed with the Commission by the Nebraska Public Advocate in this docket on Friday, September 30, 2022. Black Hills Energy agrees with the Observations and Analysis as well as the Conclusions and Recommendations as set forth in the Report. Black Hills Energy responds directly to the Concerns raised by the Public Advocate on page 8 of the Report.

**Summary of Report and List of Concerns**

Blue Ridge Consulting and the Public Advocate conducted a thorough examination of several different areas of investigation regarding Black Hills Energy’s application to proceed with a pilot program to provide interested residential and commercial retail customers with the choice to buy “blocks” monthly to offset a certain amount of carbon dioxide emissions associated with the customer’s natural gas usage (“VRNG Program”). Each “block” represents the offset of 20.5

terms of natural gas emissions, which equates to approximately 33% of the average residential customer's monthly usage, and customers may buy as many blocks as they choose.

The Report notes that Customers wishing to take part voluntarily opt-in to the Program and must be in good standing. Participating customers specify the set number of blocks they wish to purchase each month and may discontinue their participation commencing with their next billing cycle. Through the Program, participating customers directly fund the purchase of renewable natural gas environmental attributes and carbon offset credits, which represent measurable, verifiable emission reductions from certified climate action projects.

As part of the Program, Black Hills Energy is seeking approval of deferred accounting treatment to record and defer the revenues and expenses associated with the Program to ensure that only Program participants pay for the costs of the Program and to ensure the Company fully recovers the costs of the Program from only those customers who participate. Black Hills Energy is also seeking Commission approval of tariffs to establish rates for Program participation.

The Company is proposing to implement the Program for a pilot period of four years, beginning January 1, 2023, through December 31, 2026, to gauge customer interest and monitor Program finances.

After its detailed review and analysis of Company information, the Report recommends that Black Hills Energy's VRNG Program be approved and implemented subject to resolving the concerns listed on page 8 within the Report. The concerns are provided in the Report as follows:

1. Due to the expected long period until the Program is revenue positive and the new nature of this type of program, BHE should provide the Commission with a quarterly report of marketing efforts (number of customer contacts), participation (number of participating customers and purchased Blocks), the deferred balance of the Program, and the ratio of contacts received through the Company's website and contact center compared to the system developed and operated by 3Degrees.

2. Beginning in year three of the Program, BHE should report to the Commission its efforts to spur development of Renewable Natural Gas (“RNG”) and other renewable energy projects within Nebraska and the greater BHE system.<sup>1</sup>
3. BHE has estimated a total cost of \$4,500 annually for maintenance and updates to the customer information systems, the Company’s website, and the online customer portal. Depending on the degree of integration among BHE’s affiliates, this cost estimate may be low.
4. BHE has not defined how Program costs, including the full-time employee, program compliance, and verification and audits, and customer contact expenses are to be allocated across all appropriate jurisdictions in the states BHE serves. Possible methodologies include number of Program participants, number of customers, number of regulated customers, revenue, etc.
  - a. If BHE Nebraska becomes the first BHE affiliate to receive approval, the initial year cost allocation should be carefully examined to ensure that costs are allocated across all affiliates over a reasonable start-up period.
5. The proposed tariff sheet for the VRNG Program should include these items:
  - a. Spell out RNG as Renewable Natural Gas; and
  - b. Indicate that customers who chose to participate still must purchase gas commodity.
6. If the program is not successful and the Program is discontinued, BHE has not defined how any unrecovered deferred balance would be resolved, although in correspondence they have offered a “ring fence.”
7. BHE has offered (in recent correspondence) to provide Nebraska with a most-favored clause to ensure that its Nebraska Program is at least as advantageous as other affiliates’ programs that may be approved later.
8. Less than half the revenue collected during the initial four-year period supports offsets, with the remainder covering Program expenses.<sup>2</sup>

### **Black Hills Energy’s Response to Report Concerns**

Black Hills Energy appreciates the thorough investigation, review, and analysis conducted by the Public Advocate and Blue Ridge Consulting. Black Hills Energy responds and addresses each of the concerns listed in the report below.

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<sup>1</sup> DTE offers a RNG program and one of the sources noted is “... wastewater treatment facilities in Grand Rapids, Michigan and Nebraska.”

<sup>2</sup> Direct Exhibit TEF-3

1. **Reporting.** Black Hills Energy agrees to file a formal report once or twice a year as deemed appropriate by the Public Advocate and Commission. The report to be filed would include the items set forth in Concern #1.

In addition, the Kansas Corporation Commission (“KCC”) will consider an expected but not yet filed list of recommendations from the Consumer Utility Ratepayers Board (“CURB”) asking that Black Hills Energy file an annual report for the VRNG program administered in the State of Kansas. The current draft list of items that CURB may recommend for the KCC’s VRNG Annual Report is as follows:

- No. of blocks sold and measurement of increased/decreased block purchases each month
- Amt. of CO2 or other measurable environmental impacts as a result of program performance
- No. of customers participating, separated by customer class
- No. of customers joining and leaving program each month
- Current ratio of RNG and Carbon Offset Credits that composes blocks
- Measurement of Carbon Credit funds being used in KS, Midwest, and elsewhere from among all states in Black Hill’s jurisdiction
- Explanation for any shortfalls for not reaching 20% of credits and RNG being sourced in KS
- Amt. of RNG ratio for blocks compared to other BH jurisdictions
- Data regarding the development of RNG production in KS
- Comparison of programs in Kansas with other BH jurisdictions by block prices, ratio of RNG/credits, customer participation, and budget.
- Provide customers who unenroll a limited text box for feedback on reason for unenrolling. Compile responses into a report.

The current discussion between Black Hills Energy and the CURB staff is to work together to design an annual report that responds to the information needs of the Kansas regulatory administrators and the KCC but does not place unnecessary costs or burdens on Black Hills Energy and VRNG Program customers. A couple of report items on the CURB draft list of recommendation includes information related to (a) sourcing RNG in Kansas or (b) tracking customers who unenroll from the VRNG Program. Black Hills Energy has not yet had time to

determine whether such information provides relevant information or costs too much to track. Black Hills Energy is still discussing this initial CURB draft list with its internal subject matter experts to determine how to respond to those items.

However, Black Hills Energy desires to maintain some level of consistency in reporting among the various jurisdictions in which it will provide its VRNG Program. To that end, Black Hills Energy proposes to work with the Public Advocate and the Commission to refine both the content and format of a Nebraska report similar but not necessarily identical to VRNG Program reports filed in other jurisdictions. The report would include items in the Public Advocate's Report but could also include items adopted by the KCC.

2. **Year Three – RNG Project Report.** Black Hills Energy commits to providing a report to the Commission of its efforts to spur development of RNG and other renewable energy projects within Nebraska and other states.

3. **Customer Information System Improvements.** Black Hills Energy will commit to managing its customer information system expenses appropriately, but appreciates the concerns raised by the Report on this topic.

4. **Full-Time Employee (“FTE”) Cost Allocation.** Black Hills Energy will not be the only jurisdiction that approves the VRNG Program. Black Hills Energy commits to managing its FTE costs and allocation in a prudent manner. As this VRNG Program develops, Black Hills Energy will inform the Commission and the Public Advocate of the costs and the allocation method adopted for the VRNG Program, with all VRNG Program costs recovered from VRNG Program participants.

5. **VRNG Program Tariff Sheet Revisions.** BH Nebraska Gas will submit a revised Nebraska Natural Gas Tariff, Rate Schedules and Other Charges, Sheet No. 137. The revised tariff sheet will replace and supersede the originally proposed BH Nebraska Gas VRNG

tariff sheet filed on August 12, 2022. The revised BH Nebraska Gas Tariff Sheet No. 137, to become effective on January 1, 2023, will include the revised clarifications set forth in the Report along with tariff clarifications recommended by the KCC. The redlined tariff included as Exhibit A of this Response shows the changes to be included in the compliance filing upon Commission approval.

6. **Ring Fencing and Unrecovered Costs.** Black Hills Energy commits to establishing appropriate accounting processes and procedures to ensure that costs and revenues from the VRNG Program will not impact non-participating customers. In addition, Black Hills Energy commits that any unrecovered losses upon termination of the Program will be borne by Black Hills Energy.

7. **Consistency Between Other States Approving the VRNG Program.** Black Hills Energy commits to inform the Commission of approval of the VRNG Program in other states in which an affiliate of Black Hills Energy operates. If the Commission finds terms and conditions adopted or required by other Commissions to be appropriate for the VRNG Program in Nebraska, then Black Hills Energy would commit to incorporating those items in the Nebraska VRNG Program.

8. **Revenues Collected.** Black Hills Energy understands the concern identified related to the use of revenues for offsets and VRNG Program expenses. Black Hills Energy believes that allocation is reasonable given that this is a new program. Black Hills Energy is committed to grow this VRNG Program during the Pilot period so that the number of offsets may increase in the future years of the VRNG Program.

### **Deferred Accounting Mechanism**

Black Hills Energy also requested Commission approval of a deferred accounting mechanism to capture the revenues and expenses associated with the VRNG Program. As provided in the Report, the accounting order will address the following items.

1. Customers who participate in the Program see a new line item on their customer bills identifying the charges associated with enrollment.
2. Revenues are booked to a deferred balance sheet account separate from base revenues, GCA revenues, SSIR revenues, and all other revenue streams.
3. All expenses of the Program, whether internal expenses or expenses attributable to third parties, are booked to the same deferred balance sheet account as the revenues.
4. Expenses are deferred in the year incurred, with the opportunity to recover those deferred expenses in the future as the program matures and participation increases.
5. As the Program matures, forecasted increased enrollees should result in Program revenues exceeding Program expenses, creating a regulatory liability. The balance is to be used to benefit Program participants by acquiring higher percentages of RNG environmental attributes and/or higher premium carbon offset credits, subject to Commission approval.<sup>3</sup>

The Report observes that Black Hills Energy's proposed deferred accounting mechanism is not unreasonable if the Company is able to resolve the concerns (1 through 7) through appropriate modifications to the VRNG Program. Black Hills Energy commits to addressing the concerns raised by the Public Advocate. Accordingly, Black Hills Energy believes that approval of the deferred accounting order to capture VRNG Program expenses should be granted by the Commission.

### **Conclusion**

Black Hills Energy respectfully requests that the Commission (1) enter an order approving the Company's proposed Voluntary Renewable Natural Gas and Carbon Offset Program to be implemented by January 1, 2023 subject to Black Hills Energy addressing or otherwise complying with the Concerns raised by the Public Advocate in the Report; (2) enter an order approving the

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<sup>3</sup> Direct Testimony of Tylor E. Frost at 8:8–9:20.



deferred accounting mechanism associated with the VRNG Program; (3) allow the Company to file its revised tariffs as a compliance filing on not less than two days' notice; and (4) to the extent necessary or appropriate, grant such waivers, conditions, approvals or such other and further relief as it deems appropriate, consistent with this Application. Black Hills Energy looks forward to working with the Public Advocate and with the Commission to address the Concerns presented in the Report.

Dated: October 4, 2022.

Respectfully Submitted,

BLACK HILLS NEBRASKA GAS, LLC,  
D/B/A BLACK HILLS ENERGY, Applicant.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing Response of Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy to the Report of the Nebraska Public Advocate was served electronically on October 4, 2022, upon the following:

Nichole Mulcahy <a href="mailto:Nichole.mulcahy@nebraska.gov">Nichole.mulcahy@nebraska.gov</a>	Deena Ackerman <a href="mailto:Deena.ackerman@nebraska.gov">Deena.ackerman@nebraska.gov</a> E-filing: <a href="mailto:psc.naturalgas@nebraska.gov">psc.naturalgas@nebraska.gov</a>
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Christina Ellis  
Christina Ellis

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

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**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.

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**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

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**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.

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**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.

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**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.

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

EFFECTIVE DATE: January 1, 2023

Received by NPSC 10/04/2022

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**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.

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

EFFECTIVE DATE: January 1, 2023

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