

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-109
CITY, SOUTH DAKOTA, SEEKING)
APPROVAL OF A GENERAL RATE)
INCREASE)**

REBUTTAL TESTIMONY AND EXHIBITS OF

JASON L. BENNETT

Manager of Regulatory & Finance

ON BEHALF OF

BLACK HILLS NEBRASKA GAS, LLC

October 13, 2020

Table of Contents

<u>SECTION</u>	<u>PAGE</u>
I. INTRODUCTION AND BACKGROUND	1
II. CONTRIBUTIONS, DUES AND LOBBYING EXPENSES.....	3
III. LINE LOCATE COSTS	3
IV. CAPITAL ADDITIONS (2020 CWIP).....	3
V. FARM TAP REPLACEMENT PROJECT	6
VI. SSIR CATEGORY EXPANSION	8
VII. 2021 SSIR APPLICATION.....	9
VIII. RATE REVIEW EXPENSES	10
IX. GAS STORAGE INVENTORY	12
X. LINE LOCATES SURCHARGE RECOVERY	12
XI. CUSTOMER IMPACT OF THE APPLICATION FOR 2021 SSIR PROJECTS.....	13
XII. CONCLUSION	13

Exhibits

Exhibit No. JLB-8	Farm Tap Replacement Program Progress Report
Exhibit No. JLB-9	2021 SSIR Narrative (Redlined)
Exhibit No. JLB-10	2021 SSIR Narrative (Clean)
Confidential Exhibit No. JLB-11	Rate Review Expenses

1 **REBUTTAL TESTIMONY OF JASON L. BENNETT**

2 **I. INTRODUCTION AND BACKGROUND**

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is Jason L. Bennett. My business address is 1731 Windhoek Drive, P.O. Box
5 83008, Lincoln, NE 68512.

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by Black Hills Service Company, LLC (“BHSC” or “the Company”). My
8 position is Manager of Regulatory and Finance.

9 BH Nebraska Gas is a wholly owned subsidiary of Black Hills Utility Holdings,
10 Inc. (“BHUH”). BHUH is a wholly owned subsidiary of Black Hills Corporation (“BHC”).
11 BHSC is a wholly owned subsidiary of Black Hills Corporation (“BHC”). BH Nebraska
12 Gas conducts business in Nebraska under the trade name of Black Hills Energy.

13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

14 A. I am testifying on behalf of BH Nebraska Gas. BH Nebraska Gas is the natural gas utility
15 resulting from the recent internal consolidation of the Nebraska gas utility assets and
16 operations of BHC's two former Nebraska gas utility distribution subsidiaries, Black Hills
17 Gas Distribution, LLC (“BH Gas Distribution”) and Black Hills/Nebraska Gas Utility
18 Company, Inc. (“BH Gas Utility”)¹.

19 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING?**

20 A. Yes, my Direct Testimony was filed in this proceeding on June 1, 2020.

¹ See Nebraska Public Service Commission Application No. NG-100.

1 **Q. ARE YOU SPONSORING ANY EXHIBITS TO YOUR REBUTTAL TESTIMONY?**

2 A. Yes. I'm sponsoring the following exhibits:

Exhibit Name	Description
Exhibit No. JLB-8	Farm Tap Replacement Program Progress Report
Exhibit No. JLB-9	2021 SSIR Narrative (Redlined)
Exhibit No. JLB-10	2021 SSIR Narrative (Clean)
Confidential Exhibit No. JLB-11	Rate Review Expenses

3 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

4 A. The purpose of my testimony is to respond to issues raised in Answer Testimonies of the
5 following witnesses as they relate to:

- 6 1) Contributions, Dues, and Lobbying Expenses – Ms. Mullinax
- 7 2) Capital Additions (2020 CWIP) – Ms. Mullinax
- 8 3) Farm Tap Replacement Program – Ms. Mullinax
- 9 4) SSIR Category Expansion – Mr. Fijnvandraat
- 10 5) 2021 SSIR Application – Mr. Fijnvandraat
- 11 6) SSIR and the Data Infrastructure Integrity Program (DIIP) – Mr. Fijnvandraat
- 12 7) Line Locate Costs – Ms. Mullinax
- 13 8) Rate Review Expenses – Ms. Mullinax
- 14 9) Gas Storage Inventory – Ms. Mullinax

15 My testimony also addresses the following issues not directly addressed in the direct
16 testimony of the Public Advocate.

- 17 1) Line Locates Surcharge Recovery
- 18 2) Customer Impact of the Application for 2021 SSIR Projects

1 **II. CONTRIBUTIONS, DUES AND LOBBYING EXPENSES**

2 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO ADVERTISING AND**
3 **DUES?**

4 A. Yes. Based upon the recommendations discussed in the direct testimony of Ms. Mullinax,
5 the Company is proposing to make certain changes to advertising and dues. The Company
6 acknowledges the unintentional error of the inclusion of \$34,443 in Advertising. In
7 addition, \$31,500 in dues covering multiple years (2019 and 2020) and 5% of dues for the
8 Lincoln Independent Business Association related to lobbying activities are being adjusted.
9 These changes are incorporated into Mr. Clevinger’s updated Revenue Requirement Study
10 Exhibit No. MCC-9 Statement H, which is an update to Exhibit No. MCC-2 Statement H.

11 **III. LINE LOCATE COSTS**

12 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO LINE LOCATE COSTS?**

13 A. Yes. Based upon the recommendations discussed in the direct testimony of Ms. Mullinax,
14 the Company is proposing to make certain changes to line locate costs. The Company
15 acknowledges the unintentional error of the inclusion of \$147,841 related to the ALLO
16 Project in 2019 line locate costs. These changes are incorporated into Mr. Clevinger’s
17 updated Revenue Requirement Study Exhibit No. MCC-9 Statement H, which is an update
18 to Exhibit No. MCC-2 Statement H.

19 **IV. CAPITAL ADDITIONS (2020 CWIP)**

20 **Q. WHAT ARE THE PUBLIC ADVOCATE’S CONCERNS WITH THE COMPANY’S**
21 **PROPOSED CAPITAL ADDITIONS?**

22 A. Ms. Mullinax reviewed the Company’s past performance related to the SSIR plant that it
23 had forecasted against the amount that was actually placed in service and used one year’s

1 variance as the justification to exclude all forecasted plant from capital additions and the
2 revenue requirement with the reasoning that, “There is no reason to think that the
3 Company’s forecasting has improved significantly”².

4 **Q. DOES THE COMPANY AGREE WITH THE PUBLIC ADVOCATE’S REMOVAL**
5 **OF FORECASTED CAPITAL?**

6 A. No.

7 **Q. WHAT IS YOUR RESPONSE TO THE PUBLIC ADVOCATE?**

8 A. The Company acknowledges that capital forecasting is challenging, especially when doing
9 so in an SSIR application where forecasts are made up to 12 months in advance of the
10 commencement of construction. In particular, external costs such as contractor pricing and
11 materials can change significantly in 12 months. In addition, uncontrollable weather,
12 unique pandemics, unanticipated floods, or unforeseeable complications arising during the
13 project construction and installation process can significantly throw off a budget and timing
14 of a forecasted project compared to the ultimate actual costs of the project.

15 However, the projects being reviewed as part of Capital Additions are not subject to such
16 uncertainty at this time. All projects being proposed as Capital Additions are in progress
17 and near completion. These costs are now known and measurable. Contractor installation
18 and material prices have been established, materials have been ordered, and weekly updates
19 are being provided by and discussed with the contractors. Accordingly, those projects that
20 remain to be completed will be completed as represented by the rebuttal testimony of Mr.
21 Jarosz. Those projects are consistent with the Commission’s requirements for inclusion in
22 rate recovery in this proceeding. The uncompleted project costs are known and

² Direct Testimony of Donna H. Mullinax, page 16, line 5

1 measurable. The completed and projected capital additions will be placed into service prior
2 to December 31, 2020 as permitted by the State Natural Gas Regulation Act and
3 Commission rules, and prior commission orders.³

4 An example of the weekly update is included as Exhibit No. KMJ-7 and Exhibit
5 No. KMJ-8. Exhibit No. KMJ-7 is a summary report from Summit Engineering Services
6 shows all the projects for that contractor to be completed in 2020 and includes the footage
7 contracted vs installed (% complete) and the total project cost estimated vs spent through
8 September 27, 2020. Also included is the remaining footage to be installed that gives a
9 good indication of the final estimated costs and in-service date. Exhibit No. KMJ-8 is a
10 detailed report from Summit Engineering Services for one project to be completed in 2020.
11 Like the summary report, includes footage contracted vs installed (% complete) and the
12 total project cost estimated vs spent through September 27, 2020. Also included details
13 about materials ordered, installed, and forecasted, as well as weekly progress of installation
14 quantities.

15 **Q. DO YOU BELIEVE IT IS APPROPRIATE TO INCLUDE THE COMPANY'S**
16 **FORECAST IN RATE BASE AS OPPOSED TO ONLY INCLUDING ACTUAL**
17 **COSTS?**

18 A. Yes. As Ms. Mullinax states in her testimony, "consistent with good ratemaking practices
19 and Commission precedent, adjustment beyond the base year data should only include
20 items that are known are measurable"⁴. Also, Commission Rule 005.06D provides as
21 follows:

³ Commission Application No. NG-61 (2009 BH Gas Utility Rate Review proceeding)

⁴ Direct Testimony of Donna H. Mullinax, page 15, lines 18-19.

1 *Rate base “may include items completed and dedicated to*
2 *commercial service for which construction will be*
3 *commenced and completed within one year or less from the*
4 *end of the test year.”*

5 *241 Neb. Admin. Code, Ch. 9, §005.06D.*

6 With less than three months remaining in the test year ending December 31, 2020, the
7 forecasted Capital Additions are known and measurable and should be included in Rate
8 Base.

9 **Q. WHAT IS THE COMPANY'S RESPONSE TO THE PUBLIC ADVOCATE'S**
10 **RECOMMENDATION TO REMOVE FORECASTED CAPITAL?**

11 A. The Company has provided an update for the actual plant placed in service as of September
12 30, 2020 and updated the forecasted capital additions (CWIP) for the remainder of the year.
13 These updates are provided as Exhibit No. MCC-12 in Mr. Clevenger's rebuttal testimony.
14 Detailed information about the remaining capital to be placed in service in 2020 is included
15 in Exhibit No. KMJ-6.

16 **V. FARM TAP REPLACEMENT PROJECT**

17 **Q. WHAT IS THE STATUS OF THE FARM TAP REPLACEMENT PROJECT?**

18 A. As of September 30, 2020, all but eight of the 679 Farm Tap Replacement Program projects
19 have been completed. Two of the remaining projects are in process, tow require action
20 from Northern Natural Gas Company, and four projects are delayed due to legal disputes
21 and easement issues between landowners. An updated Farm Tap Replacement Program
22 Progress Report Dated October 13, 2020 is included as Exhibit No. JLB-8.

1 As of September 30, 2020, BH Nebraska Gas reported a cumulative investment of
2 \$7,902,481 for the Farm Tap Replacement Program.

3 **Q. WHAT IS THE RECOMMENDED TREATMENT OF THE REMAINING FARM**
4 **TAPS SUBJECT TO LEGAL DISPUTES?**

5 A. The Company continues to attempt to contact customers who are refusing to obtain or to
6 grant easements to complete their Farm Tap Replacement Program projects. Should these
7 issues not be resolved by March 31, 2021, the Company will start the process to terminate
8 service to these customers.

9 **Q. WHAT AMOUNT OF INVESTMENT IN THE FARM TAP REPLACEMENT**
10 **PROGRAM IS BH NEBRASKA GAS SEEKING TO RECOVER IN THIS RATE**
11 **PROCEEDING?**

12 A. BH Nebraska Gas is seeking to recover all the actual costs of its prudently incurred
13 investment in the Farm Tap Replacement project within Rate Base.

14 **Q. WHAT ARE CONCERNS WITH THE COMPANY'S PROPOSED FARM TAP**
15 **REPLACEMENT PROGRAM COSTS TO BE RECOVERED IN THIS RATE**
16 **PROCEEDING?**

17 A. The Public Advocate believes that, "Shareholders should not be allowed a return on the
18 costs overruns that resulted from the Company's poor initial estimating and planning"⁵.

19 **Q. DOES THE COMPANY AGREE WITH THIS POSITION?**

20 A. No.

21 **Q. WHAT IS YOUR RESPONSE TO THE PUBLIC ADVOCATE'S POSITION?**

⁵ Direct Testimony of Donna H. Mullinax, page 21, lines 2-4.

1 A. As stated in the rebuttal testimony of Mr. Amdor, “The Public Advocate’s adjustment
2 should be rejected, and all of the line replacement costs should be included in rate base.
3 Adopting the Public Advocate’s recommendation to disallow the farm tap safety costs
4 above \$4 million will establish bad public policy, and perhaps send an improper signal to
5 utility managers charged with improving customer safety. The understanding and
6 agreement is that customer safety is paramount. BH Nebraska Gas managed its costs
7 prudently throughout the Farm Tap Replacement program.”⁶

8 **Q. WHAT IS THE COMPANY'S RESPONSE TO THE RECOMMENDATION TO
9 EXCLUDE ALL COSTS OVER \$4 MILLION?**

10 A. The Company is seeking full recovery of the cost of the Farm Tap Replacement Project.

11 **VI. SSIR CATEGORY EXPANSION**

12 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO SSIR CATEGORY
13 EXPANSION?**

14 A. Yes. Based upon the recommendations discussed in the direct testimony of Mr.
15 Fijnvandraat, the Company is proposing the following changes to the SSIR categories, as
16 explained in full detail in the Rebuttal Testimony of Mr. Jarosz:

17 1) Regarding the redefinition of the Top of Ground (TOG) category to include TOG, Span,
18 Shallow and Exposed Pipe Replacement, a firm definition of shallow pipe has been
19 provided to guide auditors of future SSIR years in evaluating whether projects are indeed
20 eligible based on categorical criteria.

⁶ Rebuttal Testimony of Mr. Robert J. Amdor

1 2) Regarding the redefinition of Meter Relocations to include meters located near
2 highways, streets, alleys, or inside structures, a firm definition of the replacement-only
3 nature of the capital activity has been provided.

4 3) Regarding the redefinition of PVC Pipe Replacement to include Obsolete Pipe,
5 clarification has been provided that defensible analysis for each obsolete pipe replacement
6 project will be provided in SSIR applications.

7 4) Regarding the addition of the DIIP category, clarification has been provided that risk-
8 ranking changes and changes to the Distribution Integrity Management Plan (DIMP) and
9 Transmission Integrity Management Plan (TIMP) based on development of DIIP will be
10 provided in SSIR applications.

11 5) Regarding the addition of the Reliability category, clarification has been provided that
12 measurable safety and reliability threshold criteria and descriptions of projects will be
13 provided in SSIR applications to facilitate future auditing.

14 **Q. WHAT IS THE COMPANY'S RESPONSE TO THIS RECOMMENDATION?**

15 A. The Company has incorporated these changes into the 2021 SSIR Narrative as Exhibit No.
16 JLB-9 and Exhibit No. JLB-10, which are updates to Exhibit No. 1 (2021 SSIR Narrative)
17 to Exhibit No. JLB-5 2021 SSIR Application.

18 **VII. 2021 SSIR APPLICATION**

19 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO THE 2021 SSIR**
20 **APPLICATION?**

21 A. Yes. Based upon the recommendations discussed in the direct testimony of Mr.
22 Fijnvandraat, the Company is proposing to add a number of definitions and clarifications
23 regarding the expansion of SSIR categories as explained earlier in my testimony.

1 In line with these recommendations, the Company is also adding additional information
2 about the four “Shallow” projects and six of the “Reliability” projects that Mr. Fijnvandraat
3 did not recommend for approval at this time⁷.

4 After further review with Engineering and Operations, one of the “Reliability” projects that
5 Mr. Fijnvandraat did not recommend for approval has been removed.

6 **Q. WHAT IS THE COMPANY'S RESPONSE TO THE RECOMMENDATION OF**
7 **EXCLUSION OF THOSE SHALLOW AND RELIABILITY PROJECTS IN**
8 **QUESTION?**

9 A. As additional information has been provided regarding the four “Shallow” and six of the
10 “Reliability” projects, the Company proposes that these projects remain in the 2021 SSIR
11 Application. The additional information has been incorporated into the 2021 SSIR
12 Application as Exhibit No. JLB-9 and Exhibit No. JLB-10, which are updates to Exhibit
13 No. 1 (2021 SSIR Narrative) to Exhibit No. JLB-5 2021 SSIR Application.

14 The rebuttal testimony of Mr. Jarosz includes the additional definitions and clarifications
15 of the expanded SSIR categories.

16 **VIII. RATE REVIEW EXPENSES**

17 **Q. WHAT ARE THE ACTUAL AND FORECASTED RATE REVIEW EXPENSES?**

18 A. As of September 30, 2020, the actual rate review expenses are \$561,420. As Rate Review
19 expenses on behalf of BH Nebraska Gas, the Public Advocate, and the Commission are
20 expected to continue and increase during the final stages of the rate review proceeding, a
21 prudent and reasonable estimate may exceed \$750,000. Confidential Exhibit No. JLB-11
22 is an update to the Company’s response to data request PA 1-65.

⁷ Direct Testimony of Mr. Charles A. Fijnvandraat, Page 10, lines 1-5.

1 **Q. WHAT WAS THE PUBLIC ADVOCATE’S RECOMMENDATION REGARDING**
2 **THE RECOVERY OF EXPENSES ASSOCIATED WITH THIS PROCEEDING?**

3 A. Public Advocate witness Ms. Mullinax agreed with the Company’s proposed methodology
4 for recovery of rate review expenses through a surcharge over thirty-six (36) months.⁸
5 However, Ms. Mullinax has recommended that the amount recovered should be based on
6 actual costs incurred, but limited to the Company’s estimate of \$750,000.⁹

7 **Q. DO YOU AGREE WITH THE PUBLIC ADVOCATE’S RECOMMENDATION TO**
8 **LIMIT RECOVERY AT THE COMPANY’S ESTIMATE OF \$750,000?**

9 A. While the Company agrees that recovery should be based on actual costs and not estimates,
10 the Company disagrees with the Public Advocate’s position to limit recovery at the
11 Company’s initial estimate of \$750,000. Rate review costs depend on the scope and
12 complexity of the technical and legal issues in the proceeding, the expertise required to
13 litigate the case, and the qualifications and experience of experts and counsel. While it is
14 appropriate for the Public Advocate and the Commission to ensure rate review expenses
15 are just and reasonable, a specific cap or predetermination regarding the reasonableness of
16 rate review expenses is not consistent with the underlying law. The actual rate review
17 expense is highly dependent on the litigiousness of the parties to the proceeding. The
18 number of parties, the amount of discovery and the number of hearings and conferences
19 has a significant bearing on the total rate review expense as such matters require more time
20 and resources. Thus, reasonable rate review expenses for a complex proceeding may be
21 higher than expenses for a less complex proceeding. In addition, the earlier in the case a

⁸ Direct Testimony of Ms. Donna Mullinax, Page 56, lines 16-18.

⁹ Direct Testimony of Ms. Donna Mullinax, Page 56, lines 18-19.

1 utility is required to provide estimated rate review expenses, the greater the risk the
2 estimate may differ from actuals. For these reasons, the Company disagrees with the Public
3 Advocate's recommendation to cap rate review expenses at \$750,000, and recommends
4 that all actual rate review expenses that are just and reasonable be recovered using the
5 methodology agreed to by the Company and Public Advocate in this proceeding.

6 **IX. GAS STORAGE INVENTORY**

7 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO THE TREATMENT OF**
8 **GAS STORAGE INVENTORY COSTS?**

9 A. No. The Company acknowledges that the Public Advocate recommends accepting the
10 Company's proposed treatment of Gas Storage Inventory Costs through a Gas Storage
11 Inventory Cost ("GSIC") component through the Gas Cost Adjustment mechanism applied
12 to Rate Areas One, Two and Three. The Company restates that the carrying costs associated
13 with the GSIC will be based on the approved Weighted Average Cost of Capital ("WACC")
14 as approved in this rate review proceeding.

15 **X. LINE LOCATES SURCHARGE RECOVERY**

16 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO THE TREATMENT OF**
17 **LINE LOCATES SURCHARGE RECOVERY?**

18 A. No. The proposed treatment of the Line Locate Surcharge Recovery was not directly
19 addressed in the direct testimonies of the Public Advocate, so the Company restates its
20 proposal to recover the \$1.526 million Regulatory Asset through a Line Locates Surcharge
21 over 36 months, and will only be applied to City of Lincoln customers.

1 The Company restates its position on the following issues not directly addressed in the
2 direct testimony of the Public Advocate.

3 1) Line Locates Surcharge Recovery

4 2) Customer Impact of the Application for 2021 SSIR Projects

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

6 A. Yes.

STATE OF NEBRASKA)
) SS
COUNTY OF LANCASTER)

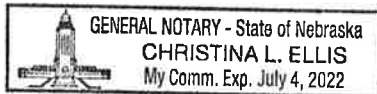
I, Jason L. Bennett, being first duly sworn on oath, depose and state that I am the witness identified in the foregoing prepared testimony and I am familiar with its contents, and that the facts set forth are true to the best of my knowledge, information and belief.



Jason L. Bennett

Subscribed and sworn to before me this 9 day of October, 2020.

(SEAL)



Notary Public

My Commission Expires:

July 4, 2022