# BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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| **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

## MICHAEL C. CLEVINGER

Sr. Regulatory Manager

**ON BEHALF OF**

**BLACK HILLS NEBRASKA GAS, LLC**

**October 13, 2020**

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## Exhibits

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|---|---|
| Exhibit No. MCC-9 | Updated Revenue Requirement Study |
| Exhibit No. MCC-10 | Application Exhibit No. 1, Section 2, Exhibit E - Revised |
| Confidential Exhibit No. MCC-11 | DR BH-PA 1-12 Attachment WP Confidential |
| Exhibit No. MCC-12 | Final plant in service update as of Sep 30, 2020 |

# REBUTTAL TESTIMONY OF MICHAEL C. CLEVINGER

## I. INTRODUCTION AND BACKGROUND

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

A. My name is Michael C. Clevinger. My business address is 7001 Mount Rushmore Road, Rapid City, South Dakota 57702.

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

A. I am employed by Black Hills Service Company, LLC ("BHSC" or "the Company"). My position is Sr. Regulatory Manager. I manage the BHSC Revenue Requirements Team, which prepares Revenue Requirement Studies and annual reports for the regulated utility subsidiaries of Black Hills Corporation ("BHC").

Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy ("BH Nebraska Gas") is a wholly owned subsidiary of Black Hills Utility Holdings, Inc. ("BHUH"). BHUH is a wholly owned subsidiary of Black Hills Corporation ("BHC"). BHSC is a wholly owned subsidiary of Black Hills Corporation ("BHC"). BH Nebraska Gas conducts business in Nebraska under the trade name of Black Hills Energy.

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

A. I am testifying on behalf of BH Nebraska Gas. BH Nebraska Gas is the natural gas utility resulting from the recent internal consolidation of the Nebraska gas utility assets and operations of BHC's two former Nebraska gas utility distribution subsidiaries, Black Hills Gas Distribution, LLC ("BH Gas Distribution") and Black Hills/Nebraska Gas Utility Company, LLC. ("BH Gas Utility")[1].

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

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

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

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

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

| **Exhibit Name** | **Description** |
|---|---|
| Exhibit No. MCC-9 | Updated Revenue Requirement Study |
| Exhibit No. MCC-10 | Application Exhibit No. 1, Section 2, Exhibit E - Revised |
| Confidential Exhibit No. MCC-11 | DR BH-PA 1-12 Attachment WP Confidential |
| Exhibit No. MCC-12 | Final plant in service update as of Sep 30, 2020 |

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

A. The purpose of my testimony is two-fold. First, I will present the updated Revenue Requirement Study Exhibit No. MCC-9 which is an update to Exhibit No. MCC-2 to accept certain recommendations made by Ms. Mullinax and to update certain adjustments with more recent information. Second, I respond to issues raised in Answer Testimonies of the following witnesses as they relate to the calculation of the Revenue Requirement in this proceeding. Table MCC-8 below is the list of issues related to the revenue requirement, organized by those that the Company agrees should be made and incorporated into Exhibit MCC-9 and those issues with which the Company disagrees. Items 1 through 12 are incorporated into the revenue requirement reflected in Exhibit No. MCC-9.

| Table MCC-8<br>Revenue Requirement issues which the Company Agrees with the Public Advocate in principle or in part | | |
|---|---|---|
| 1 | Cash Working Capital ("CWC") update | Ms. Mullinax |
| 2 | Bad Debt Expense Update | Ms. Mullinax |
| 3 | Revenue Adjustments (Weather Normalization Correction, Miscellaneous Service Fees, and Late Payment Fees) | Mr. Solganick |
| 4 | Remove Benefits from the FICA Tax Calculation | Ms. Mullinax |
| 5 | Formula Correction in Depreciation Expense | Ms. Mullinax |
| 6 | Exclude Certain Advertising Expenses | Ms. Mullinax |
| 7 | Exclude Certain Dues | Ms. Mullinax |
| 8 | Update the Cost of Debt (Interest Synchronization) | Dr. Berry |
| 9 | Line Locate Costs recorded in 2019 | Ms. Mullinax |
| **Revenue Requirement issues which the Company Disagrees with the Public Advocate** | | |
| 10 | Direct Labor Costs | Ms. Mullinax |
| 11 | Service Company Costs (Labor, Removal of 3 Full Time Employees ("FTE"), and 2021 Cost Allocation Manual ("CAM") Update | Ms. Mullinax |
| 12 | Net Operating Loss ("NOL") | Ms. Mullinax |
| 13 | Removal of the Forecasted Plant Additions | Ms. Mullinax |
| 14 | Removal of the Return on the Farm Tap Plant over the $4 million cap | Ms. Mullinax |
| 15 | Excess Deferred Federal Income Tax ("EDFIT") | Ms. Mullinax |
| 16 | Non-Plant Related Accumulated Deferred Income Tax ("ADIT") | Ms. Mullinax |
| 17 | Depreciation Rates | Mr. Dunkel |
| 18 | Cost Adjustment to reflect consolidation of rates | Mr. Solganick |
| 19 | Incentive Compensation | Ms. Mullinax |
| 20 | Supplemental Executive Retirement Plan ("SERP") | Ms. Mullinax |
| 21 | Directors' and Officers' ("D&O") insurance | Ms. Mullinax |
| 22 | Cost of Capital (Return on Equity) | Dr. Berry |

## II. UPDATED REVENUE REQUIREMENT STUDY EXHIBIT MCC-9

**Q. DID THE COMPANY MAKE ANY CHANGES TO ITS PROPOSAL IN DIRECT TESTIMONY?**

A. Yes. The Company considered the findings in discovery and the answer testimony provided by all parties and made changes to its proposed revenue requirement. The Table MCC-9 below details the changes to the Total Company revenue requirement and each change to the Jurisdictional Revenue Requirement based on the results from the Class Cost of Service Study ("CCOSS") at each interval.

**Table MCC-9**
**Summary of Adjustments to Revenue Requirement**

| Line No. | Adjustment Description | Schedule | Total Company | Jurisdictional |
|---|---|---|---|---|
| | | | | |
| 1 | **Revenue Deficiency from Exhibit No. MCC-2** | **Statement M** | **11,733,365** | **17,295,841** |
| 2 | Revenue Adjustments (WN, Misc. Service Fees, and Late Pmt Fees | Stmt I, Sched I-3 | (453,997) | (428,146) |
| 3 | Remove Benefits from FICA Tax Calculation | Sched H-4 | 1,252 | 1,091 |
| 4 | Depreciation Expense Formula Correction | Stmt J | 41,115 | 37,320 |
| 5 | Advertising Expense Formula Correction | Sched H-2 | (34,133) | (35,818) |
| 6 | Dues Expense Adjustment | Sched H-2 | (31,596) | (27,537) |
| 7 | Interest Synchronization - Cost of Debt | Stmt G, Sched G-1 | (582,887) | (501,034) |
| 8 | Line Locate Expense (Remove ALLO costs recorded in 2019) | Sched H-1, Sched H-11 | (148,233) | (130,021) |
| 9 | Labor Costs updated (Direct Labor) | Sched H-4 | (56,690) | (48,928) |
| 10 | BHSC Costs (Headcount update) | Sched H-6 | (598,592) | (521,680) |
| 11 | NOL Adjustment Update | Sched M-1 | 15,986 | 13,802 |
| 12 | **Revenue Deficiency from Exhibit No. MCC-9** | **Statement M** | **9,885,591** | **15,654,890** |

**Q. IS THERE ANYTHING TO NOTE REGARDING THE TABLE ABOVE?**

A. Yes, all the adjustments reflect the jurisdictional revenue deficiency when calculated by the Class Cost of Service Study ("CCOSS") as provided by Mr. Hyatt in his Rebuttal Testimony. The Company recognizes that Ms. Mullinax's calculation of the jurisdictional revenue deficiency impact is a reasonable representation, but would recommend the final jurisdictional revenue requirement and deficiency be calculated by the CCOSS as it will more accurately reflect the impact of the changes in the revenue requirement, which impacts rate design and the assignment of costs with the appropriate detail to align with the final calculated rates.

Additionally, changing the order in which the updates were made would provide different answers for individual changes, as one adjustment could have an impact on another adjustment. However, the cumulative change would be the same. For example, changes in rate base would have a different individual adjustment value if a change to the Weighted Average Cost of Capital took place before or after the change in rate base, but no matter the order, the final result would remain the same.

**Q. PLEASE EXPLAIN HOW THE COMPANY INCORPORATED THE CHANGE TO THE CASH WORKING CAPITAL INTO EXHIBIT MCC-9.**

A. The individual adjustments were computed by inputting the changes to the Company's integrated model which flows through to change rate base, cash working capital, return, taxes, bad debt expense, depreciation expense, and accumulated depreciation with each change. Because of this, the Company does not have a separate calculation for the change in CWC. With each incremental change to the revenue requirement, the impact on the CWC flows through the model and is captured as part of that incremental change.

**Q. PLEASE EXPLAIN HOW THE COMPANY INCORPORATED THE CHANGE TO THE BAD DEBT EXPENSE INTO EXHIBIT MCC-9.**

A. Like the CWC calculation, the individual adjustments were computed by inputting the changes to the Company's integrated model (which flows through to change rate base, cash working capital, return, taxes, bad debt expense, depreciation expense, and accumulated depreciation) with each change. Because of this, the Company does not have a separate calculation for the change in bad debt expense. With each incremental change to the revenue requirement, the impact on the bad debt expense flows through the model and is captured as part of that incremental change.

**Q. COULD YOU POINT TO WHERE THE REVENUE ADJUSTMENTS WERE INCORPORATED INTO EXHIBIT MCC-9?**

A. Yes, the Company added Schedule I-3 to Exhibit MCC-9 and incorporated an additional column (o) into Statement I to show the adjustment separately.

**Q. WERE THE ADJUSTMENTS MADE TO REVENUES THE SAME AS THOSE RECOMMENDED BY MR. SOLGANICK?**

A. Not entirely. Mr. Solganick recommended adjustments to other revenues for connections, reconnections, late payment fees, insufficient funds, and diversion. The Company agrees with Mr. Solganick on the late payment charges of ($207,515) but disagrees with Mr. Solganick's calculation of the connection, reconnection, insufficient funds fees, and diversion revenues.

**Q. PLEASE EXPLAIN THE ADJUSTMENT MADE BY THE COMPANY FOR OTHER REVENUES.**

A. See Mr. Frost's rebuttal testimony for the explanation of the Company's position regarding the calculation of Connection, Reconnection, Late Payment and Diversion revenues. The Company makes the following adjustment to other revenues on a total company basis:

- Decrease Late Payment fees revenues by $207,515
- Increase Connection Fees (normal hours) $550,715
- Increase Connection Fees (after hours) $26,059
- Increase Reconnection Fees (normal hours) $11,980
- Decrease Reconnection Fees (after hours) $9,156
- Increase Insufficient Fund Fees $17,342
- No adjustment was incorporated for diversion revenues

The result of the added adjustment is a decrease in the jurisdictional revenue requirement of $428,146.

**Q. PLEASE EXPLAIN THE CHANGE MADE TO INCORPORATE THE REMOVAL OF BENEFITS FROM THE FICA TAX CALCULATION.**

A. The Company separately calculated the expected FICA tax expense based upon the 366 headcount that the Company requests in Schedule H-4 and compares that amount to the amount recorded in 2019 of $2,188,560. The Company calculates the total amount of direct employee FICA tax expense to be $2,385,837. The Company makes the adjustment of $197,277 to the FICA tax on Schedule L-1. The result of the adjustment is an increase in the jurisdictional revenue requirement of $1,091.

**Q. IS THE CHANGE TO THE FICA TAX CALCULATION THE SAME AS THE CHANGE CALCULATED BY MS. MULLINAX?**

A. No. While the Company agrees with Ms. Mullinax that the benefits amounts should not be included in the computation of FICA tax, the Company took a direct approach to calculate the FICA tax expense based on the headcount proposed. The Company computed FICA Tax expense using only wage elements that are subject to FICA tax. Those elements are base pay, premium pay, incentive, and lump sum payments (totaling $32,096,384). After establishing the basis for calculating the FICA tax, the Company needed to account for allowed deductions to the FICA base such as employee medical and dental contributions and individual limits to the FICA tax. The Company used the calendar 2019 ratio of FICA tax expense to the wage elements subject to FICA tax as listed above to use a reasonable method of accounting for the FICA tax deductions and limits. That ratio resulted in an overall FICA rate of 7.433%. The calculated FICA tax based on this method resulted in $2,385,837 ($32,096,384 times 7.433%).

The method employed by Ms. Mullinax does not base the difference on the actual amounts recorded in 2019, but instead calculates an estimate of the adjustment based on the overall composite labor costs and incremental increase of the Company's original request. The Company understood the intent of the change and determined a method that removed the benefit information from the equation. Table MCC-9 line 3 shows the update to the calculation of FICA tax based on the requested headcount incorporated in Exhibit MCC-2. The impact on the change in the Direct Labor charges referenced on Table MCC-9 line 9 includes the change in FICA tax expense when updating the Direct Labor charges presented on Schedule H-4.

**Q. EXPLAIN THE CORRECTION OF THE FORMULA IN CALCULATING THE DEPRECIATION EXPENSE.**

A. Exhibit MCC-2, Statement J, line 22 is a sum of the depreciation expense for vehicles for BH Nebraska Gas. The $2,441,182 shown on that line was overstated because it also included the depreciation expense for vehicles for BHSC which is displayed on Statement J, line 23. The overstatement in line 22 was offset by an understatement on line 13 which is the depreciation expense for the General plant less the vehicles depreciation expense (note the reference column which states that the formula subtracts line 22 referenced above). Additionally, Statement J, line 22 is also referenced on Schedule H-12 which is the adjustment to reflect the change in fleet loadings due to the change in vehicle depreciation expense.

Exhibit MCC-9 contains the correct formula on Statement J, line 22 and the impact flows through Statement J, line 13 and Schedule H-12 to update those values as well. The result of the correction is an increase in the jurisdictional revenue requirement of $37,320.

**Q. WHY IS THERE A DRASTIC DIFFERENCE BETWEEN MS. MULLINAX'S CALCULATED IMPACT VERSUS THE COMPANY'S?**

A. Ms. Mullinax only calculated the impact of the overstatement of Statement J, line 22 and did not contemplate the corresponding change to Statement J, line 13 and Schedule H-12. The overstatement of vehicle depreciation expense of $102,895 did not include the fact that the fleet loadings also removed 39.66% of that amount from the O&M accounts on Schedule H-12 and that the overall depreciation expense would be increased by $102,895 due to the understatement on Statement J, line 13.

**Q. WHAT ARE CONCERNS WITH THE COMPANY'S PROPOSED ADVERTISING EXPENSES?**

A. The Company's revenue requirement was overstated by $34,043 in advertising expense due to a missing formula in the filed model.

**Q. DOES THE COMPANY AGREE WITH THE CALCULATIONS?**

A. Yes.

**Q. WHAT IS YOUR RESPONSE TO MS. MULLINAX?**

A. Ms. Mullinax correctly identifies that a formula error was made in Schedule H-2, which resulted in $34,043 of expenses not appropriate for recovery to be included in the revenue requirement calculation.

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

A. The Company incorporated the change in Exhibit MCC-9 to add $34,043 of advertising expenses on Schedule H-2, Removal of Expenses Not Appropriate for Recovery. This resulted in a reduction of $35,818 in jurisdictional revenue deficiency.

**Q. WHAT ARE CONCERNS WITH THE COMPANY'S PROPOSED DUES EXPENSES?**

A. Dues expenses originally proposed by the Company included certain duplicative expenses, covering annual dues for more than one year. This caused an overstatement of the revenue requirement.

**Q. WHAT IS YOUR RESPONSE TO THE PROPOSAL BY MS. MULLINAX FOR DUES EXPENSES?**

A. Ms. Mullinax correctly identified that certain payments for associations, organizations, and chamber of commerce dues related to years other than 2019, overstating this expense in the revenue requirement. The Company removed the $31,514 identified by Ms. Mullinax for duplicated payments and a minor lobbying charge. The change was incorporated to Schedule H-2, column (b) and resulted in a reduction of $27,537 in jurisdictional revenue deficiency.

**Q. DID THE COMPANY REVISE THE APPLICATION EXHIBIT NO. 1, SECTION 2, EXHIBIT E TO MATCH THE REQUESTED DUES IN THIS CASE?**

A. Yes. The Company provided a Revised Application Exhibit No. 1, Section 2, Exhibit E as Exhibit No. MCC-10.

**Q. DESCRIBE THE CHANGE TO THE COST OF DEBT AND INTEREST SYNCHRONIZATION.**

A. Mr. Amdor discusses the reason for the change in his rebuttal testimony and agrees with Dr. Berry that the Cost of Debt should be 3.91%. This change is incorporated into Exhibit No. MCC-9, Statement G and Schedule G-1 and results in a reduction of jurisdictional revenue deficiency of $501,034.

**Q. WHY IS THE JURISDICTIONAL IMPACT ON THE INTEREST SYNCHRONIZATION SUBSTANTIALLY DIFFERENT THAN THE ONE CALCULATED BY MS. MULLINAX?**

A. The Company calculates the change in cost of debt in isolation from any other changes in the Weighted Average Cost of Capital ("WACC") and includes the impact of the change in non-taxable interest. This produces an overall reduction to the revenue requirement. Ms. Mullinax calculates the total change in WACC which includes the change in both the cost of debt and the return on equity as a single adjustment and counts the entire change as a change to taxable income. The Interest Synchronization adjustment is used in tandem with the WACC adjustment to correctly remove the effect of the interest on the taxable income and calculates the offsetting increase in tax expense instead of the reduction of the return component of the Cost of Debt.

The Company agrees that these two adjustments together account for both the changes in Cost of Debt and Return on Equity. However, the Company emphasizes the fact that a reduction in the Cost of Debt when taken in isolation produces an overall reduction of the revenue requirement. The Interest Synchronization adjustment calculated by Ms. Mullinax claws back the tax expense that was overstated in her WACC adjustment.

**Q. PLEASE EXPLAIN THE ISSUE THAT MS. MULLINAX CITED LEADING TO THE LINE LOCATE COSTS ADJUSTMENT?**

A. There are two issues with line locate costs. First, the costs associated with the ALLO Fiberoptic Installation Project recorded in 2019 should be removed from the revenue requirement because that project is a non-recurring event. The second is regarding the decision to use internal labor to conduct line locates rather than third-party contractors. Ms. Mullinax states concern about the switch to using internal labor to conduct line locates outside of the Lincoln area instead of using outside contractors because it would be less cost effective. Ms. Mullinax, however, did not propose an adjustment to costs for the switch in using outside contractors.

**Q. WHAT IS THE COMPANY'S RESPONSE TO MS. MULLINAX REGARDING THESE TWO ISSUES?**

A. The Company agrees with Ms. Mullinax regarding removing the ALLO Fiberoptic Installation Project costs recorded in 2019 of $147,841. The adjustment to remove those costs is shown in Exhibit MCC-9, Schedule H-1, column (f) and results in a reduction of $130,021 in jurisdictional revenue deficiency. The Company disagrees with Ms. Mullinax regarding the cost effectiveness of using internal labor to conduct line locates. Mr. Amdor and Mr. Jarosz address this issue in their rebuttal testimony. There is no additional adjustment made to Exhibit MCC-9.

**Q. PLEASE SUMMARIZE THE COMPANY'S INTERPRETATION OF THE ISSUE THAT MS. MULLINAX CITED REGARDING THE DIRECT LABOR ADJUSTMENT.**

A. Ms. Mullinax cites her concerns regarding the fact that budgeted headcount is not synonymous with actual headcount. She provides a chart showing the historical budgeted vs. actual average headcount by year highlighting that in 2018 and 2020 the actual headcount differs from budgeted headcount. She goes on to state that it is not reasonable for the Company to include the full complement of employees in its requested revenue requirement. She recommends removing the employees that were shown as open at the time of the Company's direct filing.

**Q. HOW DOES THE COMPANY RESPOND TO THESE CONCERNS ABOUT THE DIRECT LABOR ADJUSTMENT?**

A. The Company points out that in 2019, according to Ms. Mullinax's table, the actual headcount was higher than the budgeted headcount. The Company instituted a policy that started in 2019 to hire employees into replacement positions for expected employee retirements months prior to the actual retirement date in order to transfer and retain as much institutional knowledge as possible. This process was successful in allowing the Company to maintain its budgeted headcount amidst the normal replacement lag associated with unplanned terminations.

In the first half of 2020, the Company experienced logistical challenges in conducting interviews and onboarding new employees amidst the global pandemic, shelter in place orders, and the economic slowdown. As the Company prioritized continuing to provide essential services to customers safely, and the safety of existing staff and applicants, the Company experienced some delays in filling posted positions while navigating changes from live interviews to virtual and remote interviews, finding quality applicants to fill the positions, and onboarding new employees effectively. The delays the Company experienced in filling some of the positions that were posted earlier this year is not indicative of future operations. Now, with thoughtful policies in place to return all employees to the office safely by December 5th, the Company is confident that it will fill the 12 remaining open positions by December 31, 2020. It would not be appropriate to penalize the Company for a non-recurring event by excluding these labor costs.

**Q. WHAT CHANGE WAS INCORPORATED RELATED TO THE DIRECT EMPLOYEES HEADCOUNT?**

A. The Company updated the wages and salaries adjustment to remove eight construction inspectors and one Manager of Special Projects that will not be filled by December 31, 2020. Additionally, the Company updated any open positions that were filled to reflect the actual gross wages of the new employee and to reflect any changes due to shifts of employees between positions and planned promotions. The direct headcount adjustment reflects 366 actual annual employee costs as of September 30, 2020 which includes 12 open positions currently posted and to be hired before December 31, 2020. This resulted in a reduction of $48,928 in jurisdictional revenue deficiency.

**Q. WHAT WOULD BE THE JURISDICTIONAL REVENUE REQUIREMENT IMPACT OF REMOVING THE OPEN POSITIONS?**

A. The jurisdictional revenue requirement would be reduced by $713,152 instead of the reduction of $48,929 if the Commission were to order the removal of the 12 open positions. This would include the impact on the FICA tax adjustment.

**Q. PLEASE SUMMARIZE THE COMPANY'S INTERPRETATION OF THE ISSUE THAT MS. MULLINAX CITED REGARDING THE SERVICE COMPANY HEADCOUNT.**

A. Consistent with the issue of BH Nebraska Gas headcount, the concern is based upon whether BHSC will be able to hire all the positions before December 31, 2020. All the positions requested are new to the BHSC organization and did not exist for the entirety of 2019. Ms. Mullinax contends that if these positions are not filled then they do not qualify as a normal ongoing cost that customers should bear.

**Q. WHAT IS THE COMPANY'S RESPONSE TO MS. MULLINAX ON THE BHSC HEADCOUNT ISSUE?**

A. The Company agrees in part with Ms. Mullinax. These positions, if not filled, would not meet the standard of a normal ongoing cost. The Company maintains that currently open positions included in Exhibit No. MCC-9 will be hired before December 31, 2020. The Company considered Ms. Mullinax's argument and has reevaluated its current situation to update the Commission and the Parties in two ways. First, the Company provides an updated table below of Employees that are being requested in Exhibit No. MCC-9, Schedule H-6 along with the status of whether the position is currently filled, posted, or not posted as of September 30, 2020. See Table MCC-10 below for the additional BHSC headcount requested in this case which is both the filled positions and Advertised positions. The "Not Posted" positions have not been included in Exhibit No. MCC-9. Second, the Company has removed any position that it believes will not be filled before December 31, 2020. The result of removing these positions resulted in a $521,680 reduction of jurisdictional revenue deficiency.

Table MCC-10

| Line No. | Department | Filled | Advertised | Not Posted |
|---|---|---|---|---|
| 1 | **Gas Engineering** | 17 | 4 | 10 |
| 2 | **IT** | 19 | 2 | 9 |
| 3 | **Training** | 3 | 1 | 6 |
| 4 | **Bus Dev** | 7 | 0 | 0 |
| 5 | **Accounting** | 18 | 2 | 4 |
| 6 | **Risk** | 2 | 0 | 0 |
| 7 | **Reg/Finance** | 5 | 1 | 0 |
| 8 | **Land** | 3 | 0 | 0 |
| 9 | **Community Affairs** | 0 | 1 | 0 |
| 10 | **Enviromental** | 1 | 0 | 0 |
| 11 | **HR** | 2 | 0 | 0 |
| 12 | **Supply Chain** | 6 | 0 | 1 |
| 13 | **Asset Programs** | 2 | 0 | 1 |
| 14 | **Gas Asset Opt.** | 2 | 0 | 1 |
| 15 | | | | |
| 16 | **Total** | 87 | 11 | 32 |

**Q. WHAT WOULD BE THE JURISDICTIONAL REVENUE REQUIREMENT IMPACT OF REMOVING THE BHSC HEADCOUNT THAT WAS NOT HIRED AS OF SEPTEMBER 30, 2020?**

A. The Jurisdictional Revenue Requirement would be reduced by $902,999 instead of $521,680 if the Commission were to order the removal of the open positions.

**Q. WHAT ARE CONCERNS WITH THE COMPANY'S PROPOSED ADJUSTMENT TO 2021 COST ALLOCATION MANUAL ("CAM") UPDATE?**

A. Ms. Mullinax expresses concern that the adjustment is based upon budgeted amounts and are not yet known. Since the amounts are not known, Ms. Mullinax recommends that the adjustment be eliminated.

**Q. HOW DOES THE COMPANY RESPOND TO MS. MULLINAX CONCERNING THE 2021 CAM UPDATE?**

A. The Company provided a reasonable estimate of the impact of BH Nebraska Gas' capital spend. The final CAM factors that will be used in 2021 will be available days after the filing of this rebuttal testimony. The procedures of the CAM states "Allocation ratios are set at the first of the year based upon financial information from the trailing twelve months ending September 30 for prior year".[2] The Company's normal quarter closing process takes approximately 14 days to close and then the calculations can be made, reviewed, and finalized. Therefore, the Company does not have the final known adjustment at the time of its rebuttal but would be able to produce the adjustment at the time of the hearing.

Ms. Mullinax uses the fact that the impact is not known to deny the adjustment entirely. The denial ignores the fact that the update will occur and relies on the timing of this proceeding to support her recommendations. Instead of the standard set forth in the Commission rules, which allow for adjustments to costs up to 12 months after the Base Year, Ms. Mullinax shortens the timetable of the standard to support her recommendation.

[2] See Exhibit No. MCC-6 BHSC CAM as of Dec 31, 2018 page 9, Section "Changing Allocation Ratios".

**Q. DID THE COMPANY INCORPORATE THE REMOVAL OF COSTS FOR THREE FULL TIME EMPLOYEES ("FTE") TO REFLECT SAVINGS FROM THE CONSOLIDATION OF RATES?**

A. No. Mr. Amdor addresses the Company's position in relation to the recommendation made by Mr. Solganick.

**Q. EXPLAIN THE ADJUSTMENT TO NET OPERATING LOSS ("NOL").**

A. The NOL adjustment is a requirement of tax normalization rules in rate making. The net operating loss is adjusted to remove the impact of accelerated depreciation that causes a net operating loss. The adjustment sets up a Deferred Tax Asset ("DTA") to be included in rate base to account for the removal of the accelerated depreciation when the jurisdiction is building up an NOL (or has a current year net operating loss) for taxes. When a jurisdiction has a NOL carryforward and net operating income for taxes, the adjustment reduces the DTA by the amount of the net operating income for taxes until the DTA is extinguished. After all the other adjustments are incorporated into the Revenue Requirement Study the final NOL adjustment is made in order to accurately reflect the tax position.

**Q. DID MS. MULLINAX INCLUDE AN ADJUSTENT FOR THE NOL IN HER TESTIMONY OR ANALYSIS?**

A. No.

**Q. WHERE IS THE NOL ADJUSTMENT UPDATED IN EXHIBIT NO. MCC-9?**

A. The adjustment is located on Schedule M-1 lines 19 and 40, with a related adjustment on line 49, and results in an increase of $13,802 in jurisdictional revenue deficiency.

**Q. DOES THIS ADJUSTMENT REFLECT ALL OF THE CHANGES THAT WERE MADE TO EXHIBIT NO. MCC-2 TO PRODUCE EXHIBIT NO. MCC-9?**

A. Yes.

## III. PROPOSED REDUCTION OF RATE BASE FOR PLANT NOT PLACED IN SERVICE AS OF JULY 31, 2020

**Q. WHAT ARE CONCERNS WITH THE INCLUSION OF THE 2020 FORECASTED PLANT ADDITIONS?**

A. The removal of forecasted plant additions by Ms. Mullinax was on the basis that the Commission has no guarantee that the Company will actually place the plant into service before December 31, 2020. Ms. Mullinax cites past forecasts and casts doubt on the Company's accuracy of forecasting.

**Q. DOES THE COMPANY AGREE WITH THE CALCULATIONS?**

A. The Company agrees with the computation of the corrected adjustment that Ms. Mullinax supplied in discovery and provided as Confidential Exhibit No. MCC-11. The corrected adjustment includes an offset to Accumulated Depreciation for the change in the amounts of retirements which the original adjustment did not.

**Q. WHAT IS YOUR RESPONSE TO MS. MULLINAX?**

A. First, the Company's proposed plant additions are reasonable and conforms to the Commission rules. By Commission rule (Laws 2003, LB 790, § 17)[3] the Commission is permitted to include plant that will be placed in service within 12 months of the end of the

[3] "005.06D Completion and Dedication of Property: The rate base shall ordinarily consist only of those items which are used and useful in providing service to the public. This may include items completed and dedicated to commercial service for which construction will be commenced and completed within one year or less from the end of the test year. The Commission may also determine that property which has not been completed and dedicated to commercial service may be used and useful and included in the rate base. In determining whether construction work in progress should be included in the rate base, the Commission may consider whether projects under construction are prudent."

Base Period whether the project has been completed and placed into commercial service or not.

Second, the removal of plant that would be placed in service between August 1 and December 31, 2020 would create a misalignment with the rest of the Revenue Requirement Study. The Company has proposed other adjustments that align expenses, revenues, and rate base as of December 31, 2020.

Third, many of the dollars that were proposed to be removed from the revenue requirement by Ms. Mullinax would be eligible for recovery through the System Safety and Integrity Rider ("SSIR") that was supported by Ms. Mullinax. The date the plant was placed in service is the only exclusion. The proposal of Ms. Mullinax would deny the Company recovery of these otherwise acceptable costs. The intent of the SSIR is to recover costs of plant between rate reviews.

Finally, the Company provides an update on the status of the forecasted plant additions concurrently with this testimony. When filed, the remaining 2020 plant additions forecast will be less than three months from conclusion. The status update is intended to provide the Commission assurance of the reasonableness of the inclusion of the forecasted plant additions.

**Q. PLEASE EXPLAIN THE MISALIGNMENT OF EXPENSES, REVENUES, AND RATE BASE.**

A. The Revenue Incremental Growth adjustment (found on Statement I, column (i)) is directly related to the plant additions identified as Growth Plant. In other words, growth plant placed in service would generate new customers. This was considered in the Company's proposal, and the Company made a corresponding adjustment to increase revenues associated with that plant. Ms. Mullinax's removal of Growth Plant without a corresponding adjustment to the Revenue Growth adjustment creates a misalignment of expenses, revenues, and rate base. This would harm the Company by reducing the revenue requirement associated with the plant additions but not reducing the revenue offset included in the revenue requirement study.

**Q. WHAT IS THE COMPANY'S PROPOSAL REGARDING MS. MULLINAX'S RECOMMENDATION ON PLANT ADDITIONS?**

A. The Company stands by its original proposal of adding $102,031,638 of plant additions in 2020 even though it estimates the rate base would be approximately $13 million more if it were to incorporate the updated estimate in its proposal. The Company provides Table MCC-11 as a summary update to the amounts that have been expended (cash spent), capitalized (placed in service), and Retirements as of September 30, 2020. Line 3 shows that the Company has already spent $94,730,995 of the $102,031,638 of the planned plant additions with $78,727,857 being placed in service as of September 30, 2020 (line 1). The Company expects to spend another $20,378,175 by December 31, 2020 (line 4) for a total of $115,109,170 by the end of the year. The Company believes that nearly all the amounts spent will be placed in service and asserts that it will place a minimum of the $102,031,638 requested plant into service in calendar 2020.

| Table MCC-11<br>Plant Additions | | | | | |
|---|---|---|---|---|---|
| **Line No.** | **Description** | **Replacements** | **Growth** | **BHSC** | **Total Company** |
| 1 | Placed in service from Jan 1, 2020 to Sep 30, 2020 | 62,354,272 | 12,971,359 | 3,402,226 | 78,727,857 |
| 2 | CWIP at Sep 30, 2020 | 14,620,071 | 1,383,067 | - | 16,003,138 |
| 3 | Spent as of Sep 30, 2020 | **76,974,343** | **14,354,426** | **3,402,226** | **94,730,995** |
| 4 | Oct 1, 2020 to Dec 31, 2020 Plant Spend | 10,573,426 | 8,169,766 | 1,634,983 | 20,378,175 |
| 5 | Total Spend at Dec 31, 2020 | **87,547,769** | **22,524,192** | **5,037,209** | **115,109,170** |
| 6 | Amount Requested | 85,986,423 | 12,138,358 | 3,906,857 | 102,031,638 |
| 7 | Difference | **1,561,346** | **10,385,834** | **1,130,352** | **13,077,532** |
| | | | | | |
| | **Retirements** | | | | |
| | **Description** | **NE Gas** | **BHSC** | **Total Company** | |
| 8 | Retirements as of September 30, 2020 | 18,803,353 | 16,126,159 | 34,929,512 | |
| 9 | Expected Retirements Oct 1, 2020 to Dec 31, 2020 | | 608,940 | 608,940 | |
| 10 | Total Retirements | 18,803,353 | 16,735,099 | 35,538,452 | |
| 11 | Amount requested | 7,721,406 | 16,273,421 | 23,994,827 | |
| 12 | Difference | 11,081,947 | 461,678 | 11,543,625 | |

The Company expects to exceed its retirements estimate by approximately $11.5 million. This difference has no impact on the amount of rate base that the Company proposes in the case. Depreciation expense would decrease due to the added retirements but maintains that the depreciation expense requested would be more than offset by difference in the amount of plant additions, therefore, the depreciation expense included in Exhibit MCC-9 is reasonable. Exhibit No. MCC-12 as a final update of plant placed in service through September 30, 2020 as requested in discovery request PA-204. Ms. Mullinax included the July update to PA-204 as Exhibit No. DHM-04 in her testimony. Additionally, Mr. Jarosz discusses the plant additions not completed as of September 30, 2020 in his rebuttal testimony to provide further details on the status of the forecasted plant additions.

**Q. COULD YOU SUMMARIZE THE COMPANY'S CONCLUSION REGARDING THE 2020 PLANT ADDITIONS?**

A. The Public Advocate's sole reasoning for the exclusion of a portion of the 2020 plant additions is the timing of when the plant is placed in service. There is no mention of removal due to imprudence, non-jurisdictional plant, or any other reason in the Answer Testimony of the Public Advocate. The only rationale for exclusion is that the plant is not in service at this point in the proceeding. Given that the rules allow for inclusion of plant up to 12 months after the Base Year, the standard set by the Public Advocate would be impossible to meet unless a utility delays the filing of its case to more than 9 months after the close of its Base Year. The Company filed its case timely and should not be harmed for doing so.

Additionally, if the Commission disagrees with the Company on the point of timing of plant in service and the subsequent rate base inclusion, the Company would recommend two corresponding adjustments to its proposal: 1) Allow for any SSIR eligible projects not included in the computation of base rates to be includable in the SSIR and raise the first year cap to allow for the inclusion in the SSIR. 2) To reduce the revenue incremental growth adjustment found on Statement I, column (i) to commensurate with the growth plant that would be included in rate base.

**Q. DID THE COMPANY INCORPORATE THE REMOVAL OF THE FARM TAP CAPITAL IN EXCESS OF $4 MILLION INTO ITS REVENUE REQUIREMENT STUDY EXHIBIT NO. MCC-9?**

A. No. Mr. Amdor provides the Company's position on this issue in his rebuttal testimony.

**Q. WHAT ARE CONCERNS WITH THE COMPANY'S PROPOSED INCLUSION OF NON-PLANT RELATED ADIT PRESENTED BY MS. MULLINAX?**

A. Ms. Mullinax states that only items relating to plant should be included in rate base and relies on information presented in prior rate reviews to support her conclusion that the inclusion of non-plant related ADIT items is a break from prior precedent and requires a discussion in direct testimony.

**Q. WHAT IS YOUR RESPONSE TO MS. MULLINAX REGARDING THE INCLUSION OF NON-PLANT RELATED ADIT?**

A. ADIT, whether related to plant or not, is a legitimate component of rate base and should be included.

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

A. Non-Plant ADIT represents a prepayment of income tax expense that is otherwise not represented in the Revenue Requirement Study Exhibit No. MCC-9. Each item that is included as Non-Plant ADIT is included as an expense item within the Revenue Requirement model and is also included as a component of the Cash Working Capital ("CWC") calculation for the time it takes to pay expenses compared to the time it takes to receive cash from operations. Each item that is included as Non-Plant ADIT is included as an expense item within the Revenue Requirement model. The income tax expense included in the revenue requirement works under the assumption that each expense item is tax deductible in the year expensed, except for permanent tax differences as described on Exhibit No. MCC-9, Statement K.[4] A simple way to prove this assertion is to multiply the return amount by the composite tax rate and compare that amount to the tax expense included in the Revenue Requirement.

| | |
|---|---|
| Exhibit No. MCC-9, Statement M Page 1, line 17 | $40,810,205 |
| Composite Tax Rate | 27.1699% |
| Tax Expense for the return on rate base | $11,088,092 |
| Tax Expense included in the Revenue Requirement | $11,016,520 |

[4] Permanent tax differences are items that are either never deductible or never included in income for tax purposes.

The difference of $26,572 is solely due to the Permanent differences referenced in Statement K line 11. The additional income tax expense is a prepayment when compared to the revenue requirement and would need to be funded through the Company's capital structure. The Non-Plant ADIT accounts for the funds that the Company is required to finance in the form of income tax expense. It is appropriate to be included in rate base to account for the capital required to cover the timing of the payment of the income tax expense. See Mr. Klapperich's Rebuttal testimony for further explanation of the Company's position.

**Q. WHAT OTHER ISSUES THAT IMPACT THE REVENUE REQUIREMENT WERE RAISED IN ANSWER TESTIMONY AND NOT ALREADY DISCUSSED ABOVE IN THIS TESTIMONY?**

A. As listed in Table MCC-8, the Public Advocate's witnesses raised issues with depreciation rates, cost adjustment to reflect consolidation of rates, incentive compensation, Supplemental Executive Retirement Plan (SERP), directors' and officers' ("D&O") insurance, and return on equity in the cost of capital.

**Q. ARE YOU ADDRESSING THESE ISSUES IN YOUR REBUTTAL TESTIMONY?**

A. No, I am not. The Company has evaluated the Public Advocate's answer testimony on each of these topics and does not consider an adjustment to the revenue requirement calculation to be warranted. Each of these topics is thoughtfully addressed by other Company witnesses.

**Q. CAN YOU ADVISE WHICH WITNESS ADDRESSES EACH OF THESE ISSUES?**

A. Certainly. Depreciation rates are addressed by Mr. Spanos, cost adjustment to reflect consolidation of rates is addressed by Mr. Amdor, and cost of capital/return on equity is addressed by Mr. McKenzie in rebuttal. Ms. Johnson and Mr. Amdor address incentive compensation, and Supplemental Executive Retirement Plan (SERP) expense.

**Q. DO YOU HAVE ANY ADDITIONAL TESTIMONY ON THESE ISSUES?**

A. Yes. While the Company did not make any adjustments to the revenue requirement calculation for these items, if the Commission should rule that any adjustments are warranted, I recommend the Company run these adjustments through the revenue requirement and class cost of service study models to obtain precise figures and properly allocate costs to customers in rate design. Ms. Mullinax's model provides estimates but does not accurately capture the jurisdictional portion of any adjustments made to total company financial information.

**Q. EXPLAIN THE POSITION OF MS. MULLINAX REGARDING DIRECTORS' AND OFFICERS' ("D&O") LIABILITY INSURANCE?**

A. D&O liability insurance protects the personal assets of directors and officers of the company, allowing them to make decisions without fear of personal liability. Since payouts under the policy would not be recoverable from customers in rates, this is expense should be shared equally between customers and shareholders. Ms. Mullinax removes half of this expense for the portion she attributes to benefiting shareholders.

**Q. WHAT IS YOUR RESPONSE TO MS. MULLINAX?**

A. As stated by Mr. Amdor, the Company opposes this adjustment, because this insurance is a legitimate, known and measurable cost of business. The Insurance is associated with the liabilities directors and officers are at risk of incurring in the performance of the duties of their position. The Public Advocate provides no valid reason why this one expense out of the many expenses included in Base Rates should be treated differently. Maintaining facilities provides benefits for both customers and shareholders by reducing risk of loss by the shareholders and risk of loss of service for customers, but Ms. Mullinax did not propose an adjustment to remove the portion that benefits shareholders. The D&O insurance is a legitimate business expense that should not be excluded from the revenue requirement.

## IV. CONCLUSION

**Q. PLEASE SUMMARIZE THE POSITIONS OF BH NEBRASKA GAS AS OF THE DATE OF THIS REBUTTAL TESTIMONY.**

A. The Company accepts in principle the adjustments to:

- Revenue (Weather Normalization, Misc. Service Fees, and Late payment Fees),
- The removal of benefits from the FICA Tax calculation,
- The formula correction to depreciation and advertising expense,
- The removal of duplicative dues expenses,
- The update of the Cost of Debt
- The removal of ALLO line locate costs recorded in 2019

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

A. Yes.

STATE OF NEBRASKA )

) SS

COUNTY OF LANCASTER )

I, Michael C. Clevinger, 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.

Michael C. Clevinger

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

(SEAL)

GENERAL NOTARY - State of Nebraska
CHRISTINA L. ELLIS
My Comm. Exp. July 4, 2022

Christina L. Ellis
Notary Public

My Commission Expires:
July 4, 2022