

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. NG-0095/
on its own motion, seeking to) PI-213
investigate the effect of the)
Tax Cut and Jobs Act of 2017)
upon rates set by Nebraska's) ORDER APPROVING
natural gas public utilities.) STIPULATION
)
)
Black Hills/Nebraska Gas Utility) Docket No. NG-0095.2
Company, LLC d/b/a Black Hills)
Energy)
-----)
)
Black Hills Gas Distribution,) Docket No. NG-0095.3
LLC d/b/a Black Hills Energy)
)
) Entered: June 19, 2018

BY THE COMMISSION:

On March 20, 2018, the Nebraska Public Service Commission opened a docket seeking to investigate the effects of the federal Tax Cuts and Jobs Act of 2017 (TCJA), Public Law No. 115-97, upon all natural gas public utilities subject to the Commission's jurisdiction under the State Natural Gas Regulation Act, NEB. REV. STAT. §§ 66-1801 - 66-1868.¹ Since the opening of this docket, the Public Advocate, the City of Grand Island, and the City of Kearney have each filed petitions for formal intervention in this matter. Each of these petitions has been granted. The City of North Platte also filed a petition for intervention and was designated as an informal intervenor.

The Commission's March 20 Order asked each jurisdictional utility to address seven questions related to the effect of the TCJA on the utilities. The Commission requested written responses and supporting documentation be filed by April 20, 2018. All jurisdictional utilities filed written responses with supporting exhibits on or before April 20, 2018.

A Hearing Officer order subdivided this matter into three subdockets to enable the Commission to address each jurisdictional utility individually.² The filing of Black

¹ Exhibit No. 1.

² Black Hills asked that its two entities be considered separately for purposes of this docket.

Hills/Nebraska Gas Utility Company, LLC d/b/a Black Hill Energy ("BHE") was subdocketed as NG-0095.2. The filing of Black Hills Gas Distribution LLC d/b/a Black Hills Energy ("BHGD") was subdocketed as NG-0095.3. Hereafter, the two above-captioned parties will be collectively described as "Black Hills."³

EVIDENCE

All parties to the above-captioned subdockets had an opportunity to review the order opening the docket and the filings of the parties, and to conduct discovery. On May 17, 2018, the Public Advocate filed the report and work papers of Donna Mullinax, consultant to the Public Advocate.⁴

Also on May 17, 2018, Black Hills and the Public Advocate jointly filed a stipulated agreement ("the Stipulation") setting forth a proposal regarding Black Hills' treatment of additional revenue resulting from the reduction in corporate income tax pursuant to the TCJA.⁵ The Stipulation included the written testimony of Robert J. Amdor, with exhibits.⁶

On May 30, 2018, a hearing was held in the above-captioned subdockets. Douglas J. Law and Adam Buhrman appeared on behalf of Black Hills. William Austin appeared on behalf of the Public Advocate. Sallie Dietrich and Nichole Mulcahy appeared on behalf of Commission staff. Exhibits numbered 1 - 19 were offered and accepted.

Black Hills presented the oral testimony of Robert J. Amdor, Director of Regulatory with Black Hills Utility Holdings, who described the general outline of Black Hills' proposed customer credits for each entity.⁷ Black Hills noted that it had used its previous cost-of-service model from its last general rate filing to calculate the changes under the TCJA, in order to ensure that the changes would be equitable to each rate class.⁸ The Public Advocate presented to the Commission his review of the findings made by Black Hills.⁹ The Public Advocate noted that Black Hills calculated the credit amounts in line with a formula which had been promulgated by the Federal Energy Regulatory

³ Exhibit No. 4.

⁴ Exhibit No. 10.

⁵ Exhibit No. 12.

⁶ Exhibits No.s 8, 10, 12-19.

⁷ Transcript, pp. 15-52.

⁸ *Id.* at pp. 22-23.

⁹ *Id.* at 52-57.

Commission ("FERC") in 1987, which was the last time the federal corporate income tax rate was reduced significantly.¹⁰ The Public Advocate further noted that his consultant reviewed the proposal brought by Black Hills and found that the figures were appropriate and reasonable.¹¹ Each party was offered cross-examination.

FINDINGS AND OPINION

Pursuant to the State Natural Gas Regulation Act, NEB. REV. STAT. § 66-1801 *et seq.*, the Commission has "full power, authority, and jurisdiction to regulate natural gas public utilities and may do all things necessary and convenient for the exercise of such power, authority, and jurisdiction." NEB. REV. STAT. § 66-1804(1). The Act further provides that these powers are to be "liberally construed." NEB. REV. STAT. § 66-1804(2). The Commission's powers, authority, and jurisdiction, including with regard to general rate filings and rate principles, are further outlined in state regulations at 291 NEB. ADMIN. CODE, Chapter 9, Sections 4 and 5.

The Commission has reviewed the evidence presented in this matter and finds that the parties to the above-captioned subdockets are in agreement as to the following:

1. There is a benefit to be realized by both Black Hills entities named in this docket as a result of the reduction in the federal corporate income tax rate from 35% to 21%. This benefit should be passed on to Black Hills customers.
2. Under the plan proposed by the parties in the Stipulation, BHE would credit customers through a combination of fixed bill credits and volumetric bill credits. BHGD would only provide a fixed credit to its customers, with no volumetric component, due to the operation of the Choice Gas supply program.
 - a. For BHE, the total amount to be refunded would be approximately \$2,287,403. The average residential customer would receive a total of approximately \$9.53 annually. The average commercial/industrial customer would receive a total of approximately \$22.65 annually. The average Energy Options Firm customer

¹⁰ Exhibit No. 11; Transcript at 53.

¹¹ Transcript at 54.

would receive a total of approximately \$39.80 annually.

- b. For BHGD, the total amount to be refunded would be approximately \$926,691. The average residential customer of BHGD would receive \$9.15 annually. The average small commercial customer would receive \$15.87 annually. The average large commercial customer would receive \$93.39 annually.
3. There are also benefits to be realized by Black Hills customers with regard to BHE's Pipeline Replacement Charge, and BHGD's System Safety and Integrity Rider ("SSIR") tariff. These benefits will be passed on to customers through reductions in the monthly surcharge, as described in detail in the Stipulation and attached exhibits.
4. The refunds and benefits described above for each Black Hills entity would continue annually until Black Hills files its next general rate case, which is currently anticipated to be during the year 2020. The refund mechanisms are described in detail in the Stipulation and attached exhibits.
5. The methods proposed by Black Hills to provide these benefits do not incorporate savings from accumulated deferred income tax ("ADIT"). The parties agree that Black Hills customers are entitled to these tax related benefits. Accordingly, Black Hills seeks to establish an ADIT Regulatory Account for these benefits in order to pass on these savings to customers in the company's next general rate case filing. A report on the ADIT Regulatory Account would be made available to the Commission and/or Public Advocate upon request.
6. The methods proposed by the two Black Hills entities to provide tax reformation refunds to their customers are designed to be fair, just, and reasonable.

The Commission finds that the terms of the Stipulation are reasonable and satisfactory and that the customer credits proposed in the Stipulation are equitable between the various rate classes. The Commission further finds that it is appropriate for Black Hills to proceed with these customer credits beginning on July 1, 2018 and extending until Black Hills makes its next general rate case filing.

The Commission further finds that Black Hills should file with the Commission revised tariffs for BHE and BHGD which conform to the Stipulation submitted in this matter before July 1, 2018. Such tariffs shall be effective July 1, 2018. The Commission finds that pursuant to NEB. REV. STAT. § 66-1808, good cause exists for the enactment of such tariffs on July 1, 2018, provided the tariffs are consistent with the terms of the Stipulation, the testimony provided at hearing, and this Order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Joint Stipulations, Agreements, and Recommendations be approved consistent with the terms of parties' filed agreement, to include the BHE and BHGD respective bill credits, Pipeline Replacement Charges, and SSIR surcharges, as set forth in the Joint Stipulation and having been reviewed and revised by the Public Advocate, and may be enacted beginning on July 1, 2018.

IT IS FURTHER ORDERED that Black Hills file with the Commission revised tariffs, consistent with this order, and reflecting the changes proposed by the parties' Stipulation in this matter, before July 1, 2018. Such tariffs will take effect on July 1, 2018. Such tariffs will reference this Order in accordance with 291 NEB. ADMIN. CODE § 9-008.03A.

IT IS FURTHER ORDERED that Black Hills may establish a regulatory liability account to capture the tax savings relating to its excess accumulated deferred income taxes ("ADIT") and may defer the adjustment of ADIT until the next general rate filing, during which each Black Hills entity will address that tax issue.

IT IS FURTHER ORDERED that should unforeseen issues in the enactment of the terms of the Stipulation, or other relevant issues deriving from the enactment of the federal Tax Cuts and Jobs Act, arise, that the parties shall contact the Commission and seek guidance as to how to proceed.

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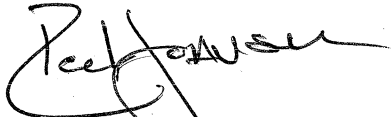
ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 19th day of June, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:




Chair



ATTEST:




Executive Director

//s//Frank E. Landis
//s//Mary Ridder