

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Black Hills/ ) Application No. NG-0074  
Nebraska Gas Utility Company, )  
LLC d/b/a Black Hills Energy, )  
Omaha, Nebraska, seeking ap- ) ORDER APPROVING  
proval of an infrastructure sys- ) INFRASTRUCTURE SYSTEM  
tem replacement cost recovery ) REPLACEMENT RECOVERY CHARGE  
charge, pursuant to Sections 66- )  
1865 and 66-1866 of the State )  
Natural Gas Regulation Act. ) Entered: November 25, 2013

BY THE COMMISSION:

On August 7, 2013, Black Hills/Nebraska Gas Utility Company, LLC d/b/a Black Hills Energy, Omaha, Nebraska (Black Hills) filed an application seeking approval of an infrastructure system replacement cost recovery charge, pursuant to the State Natural Gas Regulation Act, §§ 66-1865 and 66-1866 (2010).

In its Application, Black Hills proposed to add to the monthly customer charge \$0.50 monthly for residential rate payers; \$1.54 for commercial rate payers; and \$1.91 for Energy Options - firm rate payers. In its Application, Black Hills states that it seeks to recover its statutory jurisdictional revenue deficiency limit of \$1,435,609. The proposed rate schedules are related to a total of 356 projects, of which 115 are "Blanket" projects and 241 are specific projects. The total cost of these projects, less the associated retirements, is \$11,530,941.

Notice of the Application was published in *The Daily Record*, Omaha on March 20, 2013. A Petition for Formal Intervention was filed by the Public Advocate, and a Petition for Informal Intervention was filed by SourceGas Distribution, LLC. Orders granting interventions were entered on September 24, 2013 and October 8, 2013, respectively.

E V I D E N C E

Pursuant to *Neb. Rev. Stat.* § 66-1866(3), the Public Advocate conducted an examination of the proposed rate schedules and documentation filed with the Application and submitted a report regarding the examination on October 7, 2013. On or about October 18, 2013, Black Hills filed a response to the Public Advocate's report. Black Hills and the Public Advocate entered into a joint stipulation filed with the Commission on or about October 31, 2013.

A hearing regarding this matter was held on November 12, 2013. Mr. Douglas Law appeared on behalf of Black Hills. Mr. William Austin appeared as the Public Advocate. Angela Melton and Laura Demman appeared on behalf of Commission staff.

Copies of the Application; the report of the Public Advocate; a letter from the Commission staff; Black Hills' response to the Public Advocate's report and the stipulation were entered into the record.

As a result of the Public Advocate's review, certain data contained within the Application was revised and supplemented relating to plant additions, retirement of plant, and depreciation rates. The Public Advocate identified five projects to be eliminated as ineligible due to the lack of a corresponding retirement of plant. Additionally, the Public Advocate's report notes that the rates for Commercial and Energy Option customers were the same in Black Hills' most recent rate case but the surcharges for each are different in the present docket.

In its response, Black Hills noted and the Public Advocate agrees that pivot tables used in the Public Advocate's report were not properly updated and the parties have provided corrected tables. Black Hills disagrees with the Public Advocate's interpretation of eligible infrastructure system replacement. Therefore, Black Hills suggests that a workshop or further proceeding be held by the Commission to determine the issue. With respect to the differing rates for Commercial and Energy Options rate payers, Black Hills states that the charge was allocated between the two classes using the same cost allocation methodology in Docket No. NG-0061. However, the company states that applying the charge equally to the two classes would also yield just and reasonable rates.

The Parties jointly support the Commission initiating a proceeding to determine the proper statutory interpretation regarding eligible infrastructure system replacement. The Parties further agree that the Commission should select between the two alternate rate designs related to the charge to be imposed on the Energy Option and Commercial rate payers. A question was raised as to whether the depreciation rates used for the present application were consistent with those approved in Docket NG-0061. The Parties agree that the appropriate rate has been applied in the present docket.

## FINDINGS AND OPINION

A jurisdictional utility may apply "to establish ... infrastructure system replacement cost recovery charge rate schedules that will allow for the adjustment of the jurisdictional utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements."<sup>1</sup>

(6) Eligible infrastructure system replacement means jurisdictional utility plant projects that:

(a) do not increase revenue by directly connecting the infrastructure system replacement to new customers;

(b) are in service and used and required to be used;

(c) were not included in the jurisdictional utility's rate base in its most recent general rate proceeding; and

(d) may enhance the capacity of the system but are only eligible for infrastructure system replacement cost recovery to the extent the jurisdictional utility plant project constitutes a replacement of existing infrastructure;<sup>2</sup>

Furthermore, the Commission cannot approve a proposed rate schedule if it would "produce total annualized infrastructure system replacement cost recovery charge revenue below the lesser of one million dollars or one-half percent of the jurisdictional utility's base revenue level approved by the commission in the jurisdictional utility's most recent general rate proceeding."<sup>3</sup>

In order to approve a charge, a jurisdictional utility must have had a general rate proceeding decided or dismissed by Commission order within the sixty months immediately preceding the application.<sup>4</sup> Also, the Commission cannot approve a proposed rate schedule if the "schedules would produce total annualized infrastructure system replacement cost recovery charge revenue exceeding ten percent of the jurisdictional utility's base

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<sup>1</sup> Neb. Rev. Stat. § 66-1865(1) (2009).

<sup>2</sup> Id. Neb. Rev. Stat. §66-1802(6)

<sup>3</sup> Id.

<sup>4</sup> § 66-1865(2).

revenue level approved by the commission in the jurisdictional utility's most recent general rate proceeding."<sup>5</sup>

#### Eligible Infrastructure

The Public Advocate identified five projects to be eliminated as ineligible due to the lack of a corresponding retirement of plant. Black Hills contends that the projects should be included as integrity projects. At issue between the Public Advocate and Black Hills is whether a project constitutes an "eligible infrastructure system replacement" pursuant to §66-1802(2) if no retirement of existing plant is associated with the new plant.

Consistent with the recommendation of the Parties, the Commission finds that it shall resolve this issue in a separate proceeding as the issue is not necessary to the resolution of the present application.

#### Allocation Between Energy Option and Commercial Ratepayers

Currently, the fixed and volumetric charges for the Energy Option and Commercial classes are equal. Allocation of rate base was determined for the two classes of customers independent of one another in Docket NG-0061. However, Black Hills proposed the same rate design for both classes due to the fact that the cost of service for the two customer classes was sufficiently similar to justify the same rates. The rates as proposed were then approved by the Commission.

Black Hills utilized the same underlying cost allocation methodology to allocate the infrastructure system replacement charges as it employed in Docket NG-0061. However, in the present case, it resulted in different rates for the two classes.

"The monthly infrastructure system replacement cost recovery charge rate shall be allocated among the jurisdictional utility's classes of customers in the same manner as costs for the same type of facilities were allocated among classes of customers in the jurisdictional utility's most recent general rate proceeding."<sup>6</sup>

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<sup>5</sup> § 66-1865 (1).

<sup>6</sup> § 66-1866(6)(a), in part.

Although a significant consideration, a cost of service study is not the sole determining factor in final rates and rate design. Some level of subjectivity is inherent in the process. In its most recent general rate proceeding, the Energy Option and Commercial classes were treated as one class in the setting of volumetric and fixed rates. Therefore, Energy Option customers would expect to be treated similarly with regard to the current charge as they were treated in the most recent rate case. Should a change in the rate design with respect to the two classes be necessary, such a change should be done in a comprehensive rate case rather than in the application of this surcharge.

Based upon the Public Advocate's report, Black Hills' response, and the stipulation, the Commission finds that charges of \$0.50 per month for residential customers and \$1.48 per month for commercial customers and Energy Option customers effective December 1, 2013, should be approved generating pretax revenue of **\$1,401,883**.

Black Hills shall, for the period of December 1 through November 30 annually, reconcile the differences between the revenue resulting from the charge and pretax revenue approved by the Commission. The reconciliation and a request for any adjustments necessary to recover or refund any differences shall be filed with the Commission within sixty (60) days of the end of each twelve-month period.

Black Hills shall not collect the charge for a period exceeding sixty (60) months after its initial approval unless within such period Black Hills has filed for or is the subject of a new general rate proceeding.<sup>7</sup> However, Black Hills may collect the charge until the effective date of new rate schedules established as a result of the new general rate proceeding or until the general rate proceeding is otherwise decided or dismissed by the commission.<sup>8</sup>

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that effective December 1, 2013, infrastructure system replacement cost recovery charges set forth herein are approved generating pretax revenue of **\$1,401,883**.

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<sup>7</sup> § 66-1865(3).

<sup>8</sup> Id.

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IT IS FURTHER ORDERED that the infrastructure system replacement cost recovery charge be set forth separately from other charges on ratepayers' bills and be designated as "Pipeline Replacement Charge".

IT IS FURTHER ORDERED that on or before November 29, 2013, Black Hills file with the Commission tariff sheets setting forth the charge.

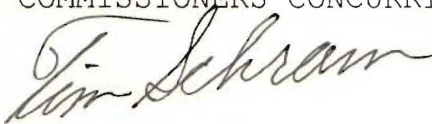
IT IS FINALLY ORDERED that Black Hills shall, for the period of December 1 through November 30 annually, reconcile the differences between the revenue resulting from the charge and pretax revenue approved by the Commission. The reconciliation and a request for any adjustments necessary to recover or refund any differences shall be filed with the Commission within sixty (60) days of the end of each twelve-month period.


MADE AND ENTERED at Lincoln, Nebraska this 25th day of November, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

  
Chair

COMMISSIONERS CONCURRING:







ATTEST:

  
Executive Director

//s//Anne C. Boyle  
//s//Frank E. Landis