

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Black Hills/Nebraska Gas Utility, LLC, d/b/a Black Hills Energy, Papillion, seeking approval to adjust the surcharge for the Farm Tap Safety Program for the 2018-19 year. ) Application No. NG-0090.1  
)  
) ORDER GRANTING FORMAL  
) INTERVENTION, APPROVING  
) STIPULATION, AND GRANTING  
) EXTENSION  
)  
) Entered: October 16, 2018

BY THE COMMISSION:

This docket originates from Nebraska Public Service Commission ("Commission") Docket No. NG-0090. In that docket, Black Hills/Nebraska Gas Utility Company, LLC, d/b/a Black Hills Energy ("Black Hills") sought approval of a program to improve the safety of customer-owned fuel lines ("farm taps") located between the interstate pipeline tap and the customer premise. Pursuant to this docket, the Commission approved a stipulation between Black Hills and the Public Advocate. Under the terms of that stipulation, Black Hills would assume ownership and responsibility of the existing farm taps by replacing or purchasing these farm taps, and would maintain the safety of the farm taps through a testing and replacement plan. Pursuant to this docket, the parties also agreed, and the Commission approved, a plan for Black Hills to recover costs through a surcharge, which would be modified each year for a total of three years, based on Black Hills' actual and anticipated costs.<sup>1</sup>

Pursuant to the above-described docket, on September 17, 2018, Black Hills submitted its Annual Progress Report for the farm tap project, along with an application to revise the accompanying tariff sheet ("Application"). On September 26, 2018, the Public Advocate filed a Petition of Formal Intervention in this matter.

EVIDENCE

On October 9, 2018, Black Hills and the Public Advocate together filed a Joint Stipulation ("Stipulation"). In the Stipulation, the parties agreed that Black Hills had been unable to complete the replacement or purchase of the number of farm taps that was anticipated by the parties' agreement in Commission Docket No. NG-0090, and that therefore, the proposed increase in the surcharge would result in a higher level of recovery to Black Hills

<sup>1</sup> See NPSC Docket No. NG-0090, Order Approving Proposal (Aug. 22, 2017).

than the level of its investment to date. The parties therefore requested that the Commission suspend the operation of the proposed revision to Tariff 41, which was submitted as part of Black Hills' Application, and defer the effective date of the proposed change in the surcharge, pending a hearing on the proposed changes.

In the Stipulation, the parties also agreed to a revision of the applicable dates and deadlines for the continuance of this project. Specifically, the parties agreed that Black Hills shall submit a supplemental report and proposed adjustment to the surcharge on or before March 31, 2019. The proposed adjustment would be based upon the number of farm tap replacements and purchases completed as of the date of the filing of the supplemental report.

The parties further agreed that the Public Advocate will review the supplemental report and proposed adjustment, and will submit a response thereto within thirty (30) days of the filing of the supplemental report. Based on the filing and the Public Advocate's response, the Commission will at that time determine whether a hearing will be held before the proposed adjustment becomes effective. After hearing, or if no hearing is held, the Commission will then determine the effective date of the revised Tariff 41.

The parties further requested that the Commission suspend the operation of the proposed revision to Black Hills' tariff submitted as part of the Application. The parties agreed that the surcharge currently set forth in Tariff Sheet No. 41, First Revised Sheet, should remain in effect until further order of the Commission.

Finally, pursuant to the Stipulation, the parties agreed that Black Hills would waive the 180-day limitation upon delays in the effective date for proposed changes in rates or other terms and conditions or service, which would otherwise apply in this docket pursuant to Neb. Rev. Stat. § 66-1808(4).

#### 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 pursuant to the Rules of Commission Procedure, 291 Neb. Admin. Code § 1-015.01 *et seq.*, the Nebraska Public Advocate's petition for formal intervention should be granted, and he should be entitled to participate in the proceeding to the extent of his express interest in the matter and in a manner consistent with 291 Neb. Admin. Code § 1-015.01C.

The Commission further finds that the parties are in agreement as to the appropriate course of action in the above-captioned docket. The Commission finds that the parties to the Stipulation have fully discussed the applicable issues and that the terms of the Stipulation are reasonable.

The Commission further finds that the proposed deadlines set forth in the Stipulation are appropriate and reasonable, and therefore should be adopted. Therefore, Black Hills will be required to file with the Commission a Progress Report and application for revision to Tariff Sheet No. 41 **on or before March 31, 2019, at 5:00 p.m. CDT.** In order to ensure the Public Advocate and the Commission have sufficient time to review the application, the effective date of Black Hills' proposed revision to the Tariff Sheet shall be determined by the Commission after review of the proposed tariff and progress report by the Commission and Public Advocate, with or without a hearing.

The Public Advocate will review Black Hills' filing and proposed adjustment, and will file with the Commission a response thereto **within thirty (30) days of Black Hills' filing.**

The Commission further finds that the Stipulation and the terms of this Order only relate to the filing and proposed tariff which would originally have been due to the Commission before September 1, 2018. Therefore, the deadline for the filing and proposed tariff which would otherwise be due to the Commission before September 1, 2019, will need to be adjusted based upon the action taken in this docket in the spring of 2019. It is the expectation of the Commission that the parties to this docket will remain in contact throughout the following months to determine how best to approach future filing deadlines, and that the parties will advise the Commission accordingly.

**O R D E R**

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Public Advocate's Petition for Formal Intervention shall be granted consistent with the terms set forth herein.

IT IS FURTHER ORDERED that the Stipulation between Black Hills and the Public Advocate be approved and the application be granted consistent with the terms of the Stipulation.

IT IS FURTHER ORDERED that the operative date of Tariff Sheet No. 1, Second Revised Sheet, be suspended until further order of the Commission, and that the surcharge currently set forth in Tariff Sheet No. 41, First Revised Sheet, shall remain in effect until further order of the Commission.

IT IS FURTHER ORDERED that Black Hills/Nebraska Gas Utility Company, LLC, d/b/a Black Hills Energy will file with the Commission a Progress Report and proposed revision to Tariff Sheet No. 41 **on or before March 31, 2019, at 5:00 p.m. CDT**. The effective date of Black Hills' proposed revision to the Tariff Sheet shall be determined by the Commission after review.

IT IS FURTHER ORDERED that the Public Advocate will review Black Hills' above-described filing and proposed adjustment and will file with the Commission a response thereto **within thirty (30) days of Black Hills' filing**.

IT IS FINALLY ORDERED that should unforeseen issues in the enactment of the terms of the Stipulation, or other relevant issues deriving from the implementation of the Farm Tap Safety Program, arise, that the parties shall contact the Commission and seek guidance as to how to proceed.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

---

Application No. NG-0090.1

Page 5

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 16th day of October, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Crystal Swader*

*Mary Ridder*  
Chair

*Patricia*

ATTEST:

*Tim Schuman*

*Nick H. H.*  
Executive Director

//s//Frank E. Landis

//s//Mary Ridder