

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC d/b/a BLACK HILLS ENERGY	DOCKET NOS. RPU-2021-0002, TF-2021-0045, TF-2021-0108
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**ORDER APPROVING SETTLEMENT, APPROVING COMPLIANCE FILINGS, AND  
GRANTING CONFIDENTIAL TREATMENT REQUESTS**

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## **INTRODUCTION**

On June 1, 2021, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills), filed with the Utilities Board (Board) an Application for Revision of Rates (Application) to increase its annual revenues. Black Hills' Application was identified as Docket No. RPU-2021-0002.

On November 8, 2021, Black Hills; the Office of Consumer Advocate, a division of the Iowa Department of Justice (OCA); the Clean Energy Districts of Iowa (CEDI); and the International Brotherhood of Electrical Workers, Local 204 (IBEW), filed a Settlement Agreement and Joint Motion for Approval of Agreement, Modification of Procedural Schedule, and Cancellation of Hearing (Settlement). On November 9, 2021, Iowa Business Energy Coalition (IBEC) filed a notice of no objection to the Settlement.

## **PROCEDURAL BACKGROUND**

On June 1, 2021, Black Hills filed its Application to increase its annual revenues by approximately \$10,544,007 pursuant to Iowa Code § 476.6 and 199 Iowa Administrative Code (IAC) chapter 26. Black Hills filed an interim tariff (also referred to as "temporary") and proposed permanent tariff revisions, identified as Docket Nos. TF-2021-0044 and TF-2021-0045, respectively. The interim rate tariff, Docket No. TF-2021-0044, became effective June 11, 2021.

On June 15, 2021, IBEW filed a petition to intervene in this docket. The Board granted IBEW's request on August 20, 2021.

On June 21, 2021, OCA filed an objection to the application and tariff and requested the tariff be docketed for further review.

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On July 1, 2021, the Board issued an “Order Approving Corporate Undertaking, Docketing Tariff, and Setting a Scheduling Conference.” In the July 1, 2021 order, the Board docketed the proposed permanent rate tariff and set a date for a scheduling conference. A scheduling conference was held July 20, 2021, with Black Hills and OCA appearing and participating. The parties agreed to dates for intervention, filing of prepared testimony, filing a joint statement of issues, settlement deadline, and hearing.

On August 3, 2021, the Board issued its “Order Establishing Procedural Schedule and Setting Technical Conference.”

On September 16, 2021, IBEC filed a Petition to Intervene in this docket. On September 20, 2021, CEDI filed a Petition to Intervene in this docket. The Board granted IBEC and CEDI’s requests for intervention on October 26, 2021.

From mid-September 2021 through early October 2021, consumer comment meetings were held in seven locations throughout Black Hills’ service territory for the purpose of receiving comments from the general public concerning the proposed rate increase, as required by 199 IAC 26.9. A virtual consumer comment meeting was held on October 12, 2021. Transcripts of the consumer comment meetings are filed in this docket.

On September 21, 2021, Black Hills filed a compliance report pursuant to 199 IAC 26.4(4)(d)(10), along with a request for confidential treatment and a corresponding affidavit.

On October 1, 2021, OCA and CEDI filed direct testimony. OCA filed exhibits and workpapers along with its direct testimony.

On October 29, 2021, Black Hills filed rebuttal testimony and exhibits, a request for confidential treatment and a corresponding affidavit with regard to one of its exhibits.

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On November 8, 2021, Black Hills, OCA, IBEW, and CEDI jointly filed a non-unanimous Settlement Agreement in which the signatory parties state they have resolved all outstanding issues regarding the general rate increase request. The settling parties request that the Board approve the Settlement in its entirety and modify the existing procedural schedule to eliminate the remaining deadlines, including canceling the hearing. Concurrent with the Settlement filing, Black Hills filed an application for confidential treatment, and a corresponding affidavit, regarding the Settlement Attachment B. Also on November 8, 2021, Black Hills filed a separate application for confidential treatment, and a corresponding affidavit, regarding a second supplemental MFR.4(4)d(6) for 2020 tax returns filed pursuant to 199 Iowa Administrative Code (IAC) 26.4(4)d(6).

On November 9, 2021, IBEC filed notice of no objection to the Settlement, stating it does not oppose the proposed Settlement and supports removing the remaining deadlines in this matter and canceling the hearing.

On November 12, 2021, the Board issued an order suspending the procedural schedule and canceling the hearing.

On November 19, 2021, Black Hills filed compliance tariffs to comply with the terms of the Settlement. On December 1, 2021, Black Hills filed revised tariffs in compliance with the Settlement to correct some editing errors. Black Hills stated that the rates were not revised.

On December 9, 2021, OCA filed its response to Black Hills' compliance filing, stating that it has no objection to Black Hills' filing.

### **SUMMARY OF SETTLEMENT**

Pursuant to the terms of the Settlement, the “Agreement shall not become effective unless and until the Board enters an Order approving [the] Agreement in its entirety without condition or modification.” (Settlement, Article IV, p. 3.) If the Board does not approve it without condition or modification, the Settlement “shall be null and void.” (Settlement, Article V, p. 3.)

The Settlement provides for “an annual Iowa jurisdictional natural gas base rate increase in the amount of \$5,906,519 based on a total annual Iowa natural gas revenue requirement of \$72,214,365.” (Settlement, Article VI, p. 4.) The Settlement provides that Black Hills’ reasonable and just rate case expense, as well as the amounts assessed by both the Board and OCA related to this matter, will be recovered through a rider that reflects a three-year amortization period, and recovery through a fixed monthly amount per class, applicable to all rate classes, subject to true up, and as approved by the Board. (Settlement, Article VI, pp. 4-5.) The specific provisions of the Settlement are addressed by the Board below to determine whether the Settlement is reasonable.

### **STANDARD OF REVIEW**

Rule 199 IAC 7.18 provides that parties may propose to settle all or some of the issues in a proceeding. *See also id.* 7.18(6). The Board may not approve a settlement, whether contested or unanimous, “unless the settlement is reasonable in light of the record as a whole, consistent with the law, and in the public interest.” *Id.* 7.18. The Board will review the substantive provisions of the Settlement under this standard.

## REVIEW OF SETTLEMENT

### A. Revenue Increase/Requirement and Rate Base

#### 1. Revenue Increase/Requirement

Black Hills proposed a rate increase of \$10.5 million for a total revenue requirement of \$77.0 million. (Black Hills Direct Testimony Johnson S., pp. 7-60.)

OCA recommended Black Hills be allowed an increase of \$2.94 million for a total revenue requirement of \$69.3 million. (OCA Direct Testimony Kruger, pp. 5-6, 23-49.)

In rebuttal testimony, Black Hills requested a revised rate increase of \$9.47 million. (Black Hills Rebuttal Testimony Johnson S., pp. 8-23.)

The signatory parties agree to an annual Iowa jurisdictional natural gas base rate increase in the amount of \$5,906,519 based on a total annual Iowa natural gas revenue requirement of \$72,214,365. The adjustments to revenue requirement calculations agreed to by the signatory parties are shown in Attachment A to the Settlement.

(Settlement, Article VI, pp. 4-5.) The Board finds the terms for Article VI regarding the revenue increase and revenue requirement are reasonable in light of the record as a whole, consistent with the law, and in the public interest. The revenue increase agreed to by the signatory parties is a compromise between the revenue increase requested by Black Hills and the revenue increase supported by OCA. The Board finds that the compromise is reasonably consistent with the positions of those two parties.

#### 2. Rate Base

In direct testimony, Black Hills proposed a rate base of \$301,548,390 that was later updated in rebuttal testimony to \$301,262,165 to reflect actual data. In direct testimony, OCA proposed a rate base of \$301,046,403 that reflected a reduced amount of capitalized performance pay, which is discussed further below in the "Incentive

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Compensation” section of this order. The rate base agreed to in the Settlement is \$300,922,791 and reflects a reduced amount of capitalized performance pay.

The Board finds that the rate base agreed to in the Settlement is reasonable in light of the whole record. The rate base reflects an agreement on the treatment of other issues and is reasonably consistent with the rate base amounts proposed by Black Hills and OCA in their testimony.

## **B. Tax Issues**

### **1. Tax Repair Deduction**

Black Hills uses the flow-through methodology for all property-related timing differences that are not required to be normalized, such as tax repair deductions. Flow-through taxes do not reduce rate base. Black Hills proposed to use a tax repair deduction amount of \$4,233,444 for the years of 2022-2025 due to an expectation that under the “Company’s five-year capital prioritization and planning projections forecast” the deduction will decrease. (Black Hills Direct Klapperich, pp. 11, 21.)

OCA took the position that ratepayers have not yet received a benefit from the decrease in tax expense; the amount of tax repair deduction used by Black Hills is too low and violates Iowa Code § 476.33(4)(a) because it requires verifiable data that exists within nine months after the historic test year. OCA recommended Black Hills use the 2020 actual repair deductions for the income tax adjustment computation of \$11,735,913. (OCA Direct Kruger, pp. 34, 37-39.)

In rebuttal testimony, Black Hills stated that 1) a historical average of tax repair deductions is an alternative reasonable basis for the tax repair deductions to include in the revenue requirement; 2) OCA’s calculation is improper and unreasonable to “embed a negative effective tax rate in the revenue requirement;” and 3) an alternative proposal

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could be an adjusted historical ten-year average of \$6,483,699. (Black Hills Rebuttal Testimony Klapperich, pp. 4-5, 12.)

The Settlement states that the amount of tax repair deduction to include in the calculation of the revenue requirement will be \$7,800,000, to be accounted for under the flow-through method of tax accounting based upon historical levels of tax repair deduction. (Settlement, Article IX, pp. 7.)

2. Annual Tax Refund Mechanism

On May 10, 2021, in Docket No. TF-2021-0024, Black Hills proposed that the current customer refund flowing through the Annual Tax Refund Mechanism, associated with the Tax Cuts and Jobs Act of 2017 (TCJA), be discontinued effective June 1, 2021, and that the over-refunded balance of \$37,476 be reconciled at the conclusion of the rate case. On June 15, 2021, the Board issued an order stating it is reasonable to allow Black Hills to reconcile the TCJA balance at the conclusion of the rate case. *In Re Black Hills*, "Order Approving 2021 Tax Refund Tariff," Docket No. TF-2021-0024 (June 15, 2021), p. 3.

In the Settlement, the parties agree to allow Black Hills to recover the outstanding balances of the Annual Tax Refund Mechanism associated with the TCJA in the same manner as the rate case expenses, which, according to the Settlement, will be recovered through a fixed monthly rider that reflects a three-year amortization period, and through a fixed monthly amount per class, applicable to all rate classes, subject to true-up, and as approved by the Board. (Settlement, Article VI, pp. 4-5.)

3. Protected Excess Deferred Income Taxes

With regard to Protected Excess Deferred Income Taxes (EDIT), Black Hills stated that the EDIT is being refunded in customer rates by the average rate



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assumption method (ARAM). ARAM specifies that the utility cannot return to customers any of the EDIT that is protected until the year in which the book depreciation expense is more than the tax depreciation on the underlying assets. By using this methodology, Black Hills avoids violating the normalization rules established by the Internal Revenue Service. The protected EDIT was estimated to be \$11.8 million, with an annual ARAM amortization of \$67,025 reduction to income tax expense. (Black Hills Direct Testimony Klapperich, pp. 15-17.)

In the Settlement, the parties agree that Black Hills will establish a regulatory account, which will track the differences between the protected EDIT being returned to customers and actual amounts calculated using the ARAM. The liability account will then be assessed during Black Hills' next rate case based on the "appropriate amount of protected excess deferred taxes based on the then-applicable rate base, depreciation rates, and tax laws, and make a recommendation as to how to return the over/under regulatory liability account to customers, so as not to create any normalization violations." (Agreement Article VI, p. 5).

#### 4. Board Discussion

The Settlement appears to be reasonable with regard to the identified tax issues. The signatory parties' approach is consistent with a number of the Board's prior dockets with how protected EDIT has been approved by the Board and follows the guidance from the Internal Revenue Service (See Docket No. RPU-2019-0001, PLR 202142002). In Docket No. RPU-2020-0001, the Board allowed recovery of the Qualified Infrastructure Plant Rider's under-recovery balance against the TCJA savings remaining balance, through a rider over a one-year period. Based upon the previous treatment of similar issues by the Board, the Board finds the terms regarding tax issues, including

those found in Article VI and Article IX, are reasonable in light of the record as a whole, consistent with the law, and in the public interest.

### **C. Return on Equity**

In its application, Black Hills proposed a return on equity (ROE) of 10.15 percent. Black Hills' ROE was based on five models: discounted cash flow (DCF) model, capital asset pricing model (CAPM), empirical capital asset pricing model (ECAPM), utility risk premium model, and expected earnings approach. Black Hills used a proxy group of nine natural gas companies as part of its analysis. (Black Hills Direct Testimony McKenzie, pp. 3-76.)

OCA proposed a 9.2 percent ROE using two models, the DCF model and the CAPM as a check on the DCF result. OCA calculated its results utilizing a proxy group of eight natural gas companies and seven water companies. If the Board approved Black Hills' proposed System Safety and Integrity Rider, OCA recommended the Board approve a ROE on the lower end of the ROE range to reflect the reduction in risk. (OCA Direct Testimony Munoz, pp. 4-40.)

The Settlement includes a ROE of 9.6 percent. The Board finds that return on equity is reasonable in light of the record as a whole, consistent with the law, and in the public interest. The record in this case demonstrated that natural gas companies, in general, represent a higher risk profile than water distribution companies and the agreed-to 9.6 percent is near the midpoint of the ROEs proposed by Black Hills and OCA. The Settlement ROE does not include the riders or cost-recovery tracker proposed by Black Hills, so no adjustment is made based upon OCA's position. The ROE of 9.6 percent is also the same ROE the Board recently approved for a natural gas utility in Docket No. RPU-2019-0002 and a water utility in Docket No. RPU-2020-0001.

#### **D. Capital Structure**

For final rates, Black Hills and OCA both proposed a capital structure that included 50.01 percent common equity and 49.99 percent long-term debt at a cost rate of 3.91 percent. The capital structure was based on a 13-month average for the pro forma period ending December 31, 2021. This is the same capital structure agreed to in the Settlement. (Black Hills Direct Testimony Amdor, pp. 76-79; Johnson S., pp. 14, 30-31; McKenzie, pp. 76-79); (OCA Direct Testimony Munoz, pp. 3-40); (Settlement Attachment A.)

The Board finds that the capital structure is reasonable in light of the record as a whole, consistent with the law, and in the public interest. The capital structure in the Settlement is the same capital structure proposed by Black Hills and OCA in their testimony.

#### **E. Rate Case Expense**

Black Hills proposed recovery of rate case expense amortized over three years through a rider as well as through base rates. (Black Hills Direct Testimony Bassell-Herman, pp. 11-12; Johnson S., p. 50.) In direct testimony, OCA recommended Black Hills recover rate case expenses through a rate case expense surcharge. (OCA Kruger Direct Testimony, p. 45.) In rebuttal testimony, Black Hills removed the rate case expense from base rates. (Black Hills Rebuttal Testimony Amdor, p. 10; Johnson S., p. 17).

In the Settlement, the signatory parties agree that rate case expense, once determined, will be recovered through a rider that reflects a three-year amortization period, and recovered through a fixed monthly amount per class, applicable to all rate

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classes, subject to true-up, and as approved by the Board. (Settlement, Article VI, pp. 4-5).

The Board finds that recovery of rate case expenses as set forth in Article VI of the Settlement is reasonable in light of the record as a whole, consistent with the law, and in the public interest. Recovery of rate case expense through a rider is preferred by the Board, is consistent with prior rate cases, and is allowed in 199 IAC 26.7(8). Because the Board suspended the procedural schedule in its November 12, 2021 order prior to briefs being filed, Black Hills will be allowed to recover rate case expense through the date this final order is issued. The Board will provide Black Hills with the total Board and OCA expenses after this final order is issued.

#### **F. Farm Tap Tracker Adjustment**

The signatory parties agreed that Black Hills is allowed to recover the outstanding balances of the Farm Tap Tracker Adjustment (FTTA) in the same manner as the rate case expenses. The Settlement includes the same recovery methodology agreed to by the parties. (Black Hills Direct Testimony Bassell-Herman, pp. 3-9); (Settlement, Article VI, p. 5.)

The Board finds the terms for Article VI regarding the FTTA are reasonable in light of the record as a whole, consistent with the law, and in the public interest.

#### **G. General Service Transportation Schedule**

Black Hills proposed the addition of a new General Service Transportation Schedule. Black Hills stated that it had agreed to serve these customers in Docket No. RPU-2010-0002; however, since this issue was not addressed in the settlement in that docket, Black Hills proposed to address it in this docket. (Black Hills Direct Testimony Bassell-Herman, pp. 14-15.)

The parties to the Settlement agreed to the implementation of the new General Service Transportation Schedule. (Settlement, Article X, pp. 7-8.)

Based upon the Settlement, the Board finds this issue is reasonable in light of the record as a whole, consistent with the law, and in the public interest.

#### **H. Revenue Allocation and Rate Design**

Black Hills' Application contained a class cost of service study (CCOSS) based on the same form and content filed by Black Hills in the last rate case, and the table below shows Black Hills' proposed rate changes. (Black Hills Direct Testimony Hyatt, pp. 8-36; Rebuttal Testimony Hyatt, pp. 4-8.)

OCA did not raise concerns with the CCOSS but objected to the weather normalization methodology used by Black Hills and the amount of the increase to the customer charge for the Large Volume Joint and Interruptible customer classes. (OCA Direct Testimony Taylor, pp. 4-16.)

CEDI stated that it had concerns about how Black Hills' Application would impact various classes. (CEDI Direct Testimony Martin-Schramm, pp. 4-12.)

The Settlement uses Black Hills' CCOSS and rate design models and sets out the specific monthly customer charges and volumetric rates agreed to in the Settlement. (Settlement, Article XI, p. 8; Attachment B). The table immediately below shows the progression of the fixed and volumetric rates as follows: Pre-RPU (rates in effect prior to this docket, and the only rates in the table, to date, that have been approved by the Board); interim (rates currently in effect); proposed (the rates Black Hills initially proposed as final rates); and Settlement rates. (Settlement, Article XI, section A.) The table lists the monthly customer charges (fixed rates) and the volumetric charges (a/k/a non-gas rates or margin) by customer class for each scenario:

Customer Class	Monthly Customer Charges				Volumetric Charges (\$ / them)			
	Pre-RPU	Interim	Proposed	Settlement	Pre-RPU	Interim	Proposed	Settlement
Residential	\$18.25	\$18.25	\$19.50	\$18.25	\$0.11635	\$0.13625	\$0.14803	\$0.13905
Commercial / Industrial	\$29.00	\$35.00	\$38.00	\$35.00	\$0.11635	\$0.13625	\$0.14803	\$0.13905
Small Volume	\$75.00	\$92.00	\$92.00	\$92.00	\$0.05237	\$0.05451	\$0.05577	\$0.05577
Small Volume Interruptible	\$75.00	\$92.00	\$95.00	\$92.00	\$0.05237	\$0.05451	\$0.06150	\$0.05577
Large Volume	\$200.00	\$390.00	\$410.00	\$300.00	\$0.02364	\$0.02960	\$0.03464	\$0.03198
Large Volume Interruptible	\$200.00	\$390.00	\$410.00	\$300.00	\$0.02364	\$0.02960	\$0.03464	\$0.03198
LVI-3 (Grain Dryer) <sup>1</sup>	\$600.00	\$1,170.00	\$1,230.00	\$900.00	\$0.02364	\$0.02960	\$0.03464	\$0.03198

<sup>1</sup> LVI-3 (Grain Dryer) monthly customer charges are only applicable from September through December

The Settlement reflects that the rates are designed to recover the agreed-to revenue requirement of \$72,214,365, as applied to the adjusted billing units which have been weather normalized based on the Board’s approved weather normalization methodology.

The following table summarizes the revenue results applicable to each customer class based on billing units provided in Attachment B to the Settlement:

Revenue from Sales Service	
General Service Residential	46,899,616
General Service Commercial	14,580,084
Small Volume Joint	15,446
Small Volume Interruptible	227,204
Large Volume Joint	29,486
Large Volume Interruptible	171,603
<b>Total Sales</b>	<b>\$61,923,439</b>
Revenue from Transportation Service	
General Service Tran.	574,408
Large Volume Interruptible Trans.	1,703,189
Large Volume Joint Trans.	1,376,393
Super Large Volume Joint Trans.	1,017,292
Small Volume Interruptible Trans.	242,591
Small Volume Joint Trans.	1,017,852
<b>Total Transportation</b>	<b>\$5,931,724</b>
<b>Total System &amp; Transport</b>	<b>\$67,855,163</b>
Mainline	(48,152)
Other Revenues	4,406,936
<b>Total Settlement Revenue</b>	<b>\$72,213,947</b>

Additionally, subject to Settlement Article XI(A), the parties agree that the Board should allocate Black Hills’ increase in retail revenue requirement (as provided in Article

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VI) to Black Hills' proposed customer classes and implement a rate design for those classes as set forth in the testimony that Black Hills has filed in this proceeding.

(Settlement, Attachment B.)

The Board finds that the Settlement concerning Black Hills' revenue allocation and rate design is reasonable in light of the record as a whole, consistent with the law, and in the public interest. A review of the rates agreed to in the Settlement shows that they will recover the total revenue requirement approved in this order, which includes the approved rate increase. The allocation of the revenue increase among the rate classes also is reasonable.

#### **I. Incentive Compensation/Uncollectible Expenses**

##### **1. Incentive Compensation**

Black Hills identified incentive, variable compensation programs within the revenue requirement in this case as follows: Annual Incentive Pay (AIP), Short-term Incentive Pay (STIP), and Long-term Incentive Pay (LTIP). The incentive pay plan is based upon performance targets that pay out as a percentage of the incentive calculation from 0 percent to 150 percent of the target. Black Hills proposed to include the five-year average performance target of 110.79 percent, which yielded an incentive-related labor adjustment of \$1,659,058 to expenses and \$576,876 to rate base. (Black Hills Direct Testimony Amdor, pp. 26-47.)

OCA recommended reducing performance pay expenses and rate base because, among other things, the incentives are determined according to financial efficiencies that are directly beneficial to the shareholders' return. In particular, OCA recommended a reduction in Black Hills' performance pay by \$1,183,737 for expenses and by \$428,434 for rate base. (OCA Direct Testimony Kruger, pp. 12-23, 49).

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In rebuttal testimony, Black Hills continued to support recovery of its compensation proposals and disagreed with OCA's proposals. (Black Hills Rebuttal Testimony Johnson K., pp. 5-24; Johnson S., pp. 18-19.)

The Settlement reduced Black Hills' expense for incentive pay by \$968,669 and rate base by \$361,269. (Settlement, Attachment B). This adjustment to incentive pay is consistent with previous Board decisions that disallow a portion of incentive compensation. The Board finds the amount of incentive pay expense and rate base is reasonable based upon record as a whole.

2. Uncollectible Expenses

Black Hills normalized the uncollectible accounts using a five-year average for the time period 2016-2020. This resulted in a reduction to bad debt expense of \$398,001. (Black Hills Direct Testimony Johnson S., pp. 35-36.)

OCA recommended removal of the 2020 amount from the five-year average, stating that 2020 was not a normal year and the five-year average should be based on the latest five years prior to 2020. (OCA Direct Testimony Kruger, pp. 23-24.)

In its rebuttal testimony, and as reflected in the Settlement, Black Hills agreed with OCA's recommendation to calculate the five-year average using the time period 2015-2019. The revised calculation resulted in a change of \$18,025 for a total reduction to bad debt expense of \$416,026. (Black Hills Rebuttal Testimony Johnson S., p. 14).

The Settlement reflects the revised calculation proposed by OCA and agreed to by Black Hills (Settlement, Attachment B.)

The Board finds the uncollectible amount agreed to in the Settlement is reasonable based upon the record as a whole. Black Hills and OCA agree to the



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revised calculation, and basing the calculation on the five years from 2015-2019 is reasonable because 2020 was an abnormal year.

#### **J. Other Settled Issues**

Black Hills proposed several items in its Application to which OCA contested in direct testimony. The Settlement addresses several of these contested items with the corresponding expenses allocated to Black Hills' ratepayers, including: 1) Black Hills' inclusion of \$16,128 of corporate aircraft expenses; 2) Black Hills' inclusion of \$134,269 of Iowa-allocated operating expenses for executive vehicles; 3) Black Hills' inclusion of \$55,098 for gifts, flowers, parties, employee events, and picnics; and 4) Black Hills' inclusion of \$316,512 to operating expenses that reflected an increase to insurance premiums. (Black Hills Direct Johnson S., pp. 14-15, 31-50; Amdor, pp. 26-47); (OCA Direct Testimony Kruger, pp. 26-30); (Black Hills Rebuttal Testimony Johnson S., pp. 9-10); (Settlement Attachment B.)

The Settlement also addresses Black Hills' costs of industry and non-industry membership dues as a recoverable expense. Black Hills identified \$301,682 for membership dues in its application. OCA recommended that these costs be allocated 50 percent to shareholders and 50 percent to ratepayers. (OCA Direct Testimony Kruger, pp. 2, 7, 26-30); (Settlement, Attachment B.) The signatory parties agreed to OCA's recommendation. As such, the Settlement resulted in a \$150,865 allocation of costs of membership dues to its shareholders, which reduced the test year operating expenses, with the remaining \$150,817 costs of membership dues allocated to ratepayers.

With regard to temporary rates that went into effect on June 11, 2021, the parties agree that if the Board enters an order approving this Settlement in its entirety without

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condition or modification, no refund shall be due to any of the Black Hills' customers pursuant to the Corporate Undertaking ordered by the Board in its docketing order.

(Settlement, Article XII, p. 9.)

The Board is approving the rate increase agreed to in the Settlement in this order. Included in that revenue increase are the expenses described immediately above. The Board has reviewed the amounts included in the Settlement and the testimony regarding those expenses and finds that the amounts are reasonable compromises in the context of this Settlement. The Board therefore finds that the amounts included in the revenue requirement for these items are reasonable based upon the record as a whole. Approval of expense amounts for these items as part of the Settlement does not create a precedent for Board consideration in a future rate case.

#### **WEATHER NORMALIZATION MODEL**

In a waiver request filed along with its application for revision of rates on June 1, 2021, Black Hills provided weather normalization model information in a format that had not been approved by the Board. The format also was not the format required in Board rules at 199 IAC 26.4(4)(d)(22). The Board had previously addressed the issue of the required weather normalization model in Black Hills' last rate case, Docket No. RPU-2010-0002, and required Black Hills to use the approved model for that case. The Board issued an order on July 13, 2021, denying Black Hills' request for waiver. In its order, the Board found that Black Hills should have utilized the weather normalization model pursuant to subparagraph 26.4(4)(d)(22) and required Black Hills to file a corrected version of its weather normalization calculation using the required model.

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The Settlement does not address the issue of the approved weather normalization model and whether the Board should take any action because of Black Hills' failure to use the approved model in its application. The Board has considered this issue and finds that no penalty or other action will be taken by the Board in this docket. The approved weather normalization model is required to be filed in any future general rate case application. If Black Hills proposes a different model, then that model and supporting material is required to be filed separately from the approved model and supporting material.

#### **PROPOSED PERMANENT TARIFF**

The proposed permanent tariff, Docket No. TF-2021-0045, was docketed and suspended to allow for review of the rate revision application. The proposed permanent tariff in Docket No. TF-2021-0045 will be rejected and Black Hills' proposed tariffs filed to implement the Settlement, as revised, in Docket No. TF-2021-0108 will be approved for service on and after January 1, 2022.

#### **COMPLIANCE FILING AND TARIFF**

The Board has reviewed the November 19, 2021 Settlement compliance filings and the December 1, 2021 revised compliance tariff filed in Docket No. TF-2021-0108. On December 9, 2021, OCA filed its response to Black Hills' revised compliance tariff, stating that it had no objections. No objections from the other parties have been filed regarding Black Hills' revised compliance tariff.

Black Hills' revised compliance tariff is consistent with the Settlement and adequately sets forth the terms agreed to by the parties. As such, the Board will

approve Black Hills' November 19, 2021 compliance tariff, as revised. The proposed revised tariff will be effective for service on and after January 1, 2022.

### **REQUESTS FOR CONFIDENTIALITY**

There are four outstanding Black Hills requests for confidential treatment, including one filed on September 21, 2021; one filed on October 29, 2021; and two separate requests filed on November 8, 2021 (collectively, Confidential Material).

In its September 21, 2021 filing, Black Hills filed supplemental information for its Application identified as Monthly Reports to Management pursuant to 199 IAC 26.4(4)(d)(10), which contains material, non-public financial information. Black Hills identified Iowa Code § 22.7(3) which addresses trade secrets which are recognized and protected as such by law ("Trade Secret") and § 22.7(6) which addresses reports to a governmental agency which, if released, would give advantage to competitors and serve no public purpose ("Report to Governmental Agency") to support its confidential treatment request.

In its October 29, 2021 filing, Black Hills filed "Exhibit 5 – OCA DR No. 217 – Confidential Cost of Debt Traditional vs. YTM," which contains material, non-public financial information. As before, Black Hills identified Iowa Code § 22.7(3) and § 22.7(6) to support its confidential treatment request.

In its November 8, 2021 filing, Black Hills again identified Iowa Code § 22.7(3) and § 22.7(6) to support its confidential treatment request.

Additionally, on November 8, 2021, Black Hills filed a request for confidential treatment for its second supplemental MFR.4(4)d(6) of 2020 tax returns filed pursuant to 199 IAC 26.4(4)(d)(6), which should be held confidential under Iowa Code § 422.20 and

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199 IAC 1.9(5)(b)(1). Black Hills again identified Iowa Code § 22.7(3) and § 22.7(6) to support its confidential treatment request.

All four of Black Hills' requests for confidential treatment contain corresponding affidavits of an officer of Black Hills, as required by 199 IAC 1.9(6)(9)(b).

Black Hills asserts that the Confidential Material is confidential under Iowa Code § 22.7(3) as a Trade Secret and under § 22.7(6) as a Report to a Governmental Agency, which, if released, would give advantage to competitors of Black Hills and serve no public purpose.

Based on the information provided by Black Hills and its supporting affidavits, the Board finds that the Confidential Material qualifies as a Report to a Governmental Agency, the release of which would give advantage to Black Hills' competitors and serve no public purpose. The Board will grant the application and hold the Confidential Material confidential under Iowa Code § 22.7(6). Since the Board finds the Confidential Material should be held confidential under Iowa Code § 22.7(6), the Board will not address whether the Confidential Material should be held confidential under Iowa Code § 22.7(3).

### **CONCLUSION**

Following its review of the record and the terms of the Settlement, the Board finds the Settlement constitutes a reasonable compromise among the parties. Furthermore, the Board concludes the Settlement is consistent with the law and prior Board action and is in the public interest. For the reasons set forth above, the Board approves the Settlement filed by the parties.

## ORDERING CLAUSES

### IT IS THEREFORE ORDERED:

1. The Settlement Agreement filed on November 8, 2021, by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy; the Office of Consumer Advocate, a division of the Iowa Department of Justice; the International Brotherhood of Electrical Workers, Local 204; and the Clean Energy Districts of Iowa, and not objected to by the Iowa Business Energy Coalition, is reasonable in light of the record as a whole, consistent with the law, and in the public interest, and is approved.

2. The proposed tariff filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, on June 1, 2021, in Docket No. TF-2021-0045, is rejected.

3. The compliance filing and proposed tariff in Docket No. TF-2021-0108, filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, on November 19, 2021, as revised on December 1, 2021, is approved. The approved tariff will become effective on January 1, 2022.

4. Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hill Energy, may recover rate case expense through the date of this order. The Utilities Board shall provide the total amount of rate case expense by the Utilities Board and the Office of Consumer Advocate, a division of the Iowa Department of Justice, when those amounts are available.

5. The applications for confidential treatment filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, on September 21, October 29, and November 8, 2021, are granted pursuant to Iowa Code § 22.7(6).

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6. The information for which the Utilities Board has granted confidential treatment shall be withheld from public inspection subject to the provisions of 199 Iowa Administrative Code 1.9(8)(b)(3).

7. This order constitutes the final decision of the Utilities Board in Docket No. RPU-2021-0002.

**UTILITIES BOARD**

**Geri Huser** Date: 2021.12.28  
13:22:55 -06'00'

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**Richard Lozier** Date: 2021.12.28  
12:45:19 -06'00'

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ATTEST:

**Kerrilyn Russ** Digitally signed by Kerrilyn Russ  
Date: 2021.12.28 15:30:10  
-06'00'

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**Joshua J Byrnes** Date: 2021.12.28  
12:30:43 -06'00'

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Dated at Des Moines, Iowa, this 28 day of December, 2021.