

## IOWA UTILITIES BOARD

IN RE:  BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC d/b/a BLACK HILLS ENERGY	DOCKET NO. RPU-2024-0001
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### **ORDER APPROVING CUSTOMER NOTICES, GRANTING WAIVERS, AND SCHEDULING CONSUMER COMMENT MEETINGS**

#### **BACKGROUND**

On February 26, 2024, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (Black Hills), filed with the Utilities Board (Board) an application for approval of nonstandard notice of rate increase, pursuant to 199 Iowa Administrative Code (IAC) 26.4(1)(a)(3); a draft of its proposed customer notice; and a request for waiver of certain Board rules. Black Hills' filing was identified as Docket No. RPU-2024-0001.

Black Hills states it is preparing an application for an increase in its retail natural gas rates, pursuant to Iowa Code § 476.6, and expects to file its application on May 1, 2024. Black Hills states it is required to file a nonstandard notice that complies with the provisions set forth in rules at 199 IAC 26.4(1)(b)(2), because it does not intend to use the Board's standard notice. Black Hills asserts that its proposed nonstandard notice includes all elements required by Board rules set forth in 199 IAC 26.4(1)(b)(2), except for the rule provisions for which Black Hills is requesting waivers.

On March 4, 2024, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed its response to the proposed nonstandard notice and

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request for waiver. OCA stated it had no objection to Black Hills' application for approval of nonstandard notice and request for waiver.

On March 14, 2024, Board staff filed correspondence in the docket identifying certain deficiencies in the notice, requesting additional information to evaluate the waivers requested, and recommending modifications to improve the clarity of the proposed notice.

On March 18, 2024, Black Hills responded to Board staff's correspondence and included a revised notice to address deficiencies and recommendations made by Board staff.

### **REQUEST FOR WAIVERS**

In its February 26, 2024 filing, Black Hills requests the Board waive the following requirements set forth in the Board's administrative rules concerning nonstandard notices of general rate increases:

**Numbered paragraph 26.4(1)(b)(2)(4):** Requires nonstandard notices to include the proposed overall increase in total and base rate annual revenues stated in dollars and as a percentage of each applicable customer class.

**Numbered paragraph 26.4(1)(b)(2)(5):** Requires nonstandard notices to have a table that includes the utility's primary customer classes and that, for each class, shows the proposed monthly base rate increase, the proposed monthly base rate increase percentage, the proposed monthly overall increase in the average monthly bill, and the proposed average monthly overall percentage increase. Increases in monthly customer rates, rates for lighting, and similar rates shall be described in a footnote to the table. The utility shall highlight on the notice the rates that are proposed for a customer receiving the notice.

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**Subparagraph 26.4(1)(b)(3):** Requires proposed nonstandard notice to contain estimated cost figures and cost percentages, but allows the estimated cost figures and cost percentages to be updated when the utility sends its approved notice.

In support of its waiver request, Black Hills states that waiving the content requirements of the rules identified will not adversely affect the public interest and that, absent the waiver, Black Hills and its customers would suffer undue hardship. Black Hills asserts that the requirements in Iowa Code § 476.6(2) and the other information provided within the nonstandard notice are sufficient to provide the relevant information to impacted customers.

On March 4, 2024, OCA filed a response stating it has no objections to the requests for waiver filed by Black Hills.

### **BOARD DISCUSSION**

Pursuant to 199 IAC 1.3, the Board may grant a waiver of Board rules if the Board finds:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The Board's rule concerning waivers also requires that a grant or denial of a waiver request shall contain a statement of the facts and reasons upon which the decision is based. The rule also provides, in relevant part, that a waiver may be granted at the discretion of the Board upon consideration of all relevant factors and that the Board may condition the grant of the waiver on such reasonable conditions as

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appropriate to achieve the objectives of the particular rule in question. For clarity, the Board will discuss each of the four factors for a waiver in turn, before summarizing its conclusion.

The first factor requires Black Hills to establish that application of the rules would impose an undue hardship on the person for whom the waiver is requested. Black Hills asserts that requiring Black Hills' nonstandard notice to comply with 199 IAC 26.4(1)(b)(2)(4) and (5) would impose a hardship on Black Hills and its customers. Black Hills asserts that, "Requiring a non-standard notice to highlight 'base rate' impacts could make it harder for a customer to understand the estimated impact of a potential rate increase on their bills." Black Hills supports this claim by referring to comments from a representative from AARP, filed on July 27, 2023, in Docket No. RPU-2023-0001, which describes the confusing nature of rate case notices and the need for further explanation of the impact on customers. Given that Black Hills will bear the hardship if the average customer finds the notice is confusing and difficult to understand, the Board finds that the first factor is met with regard to 199 IAC 26.4(1)(b)(2)(4) and (5).

With regard to 199 IAC 26.4(1)(b)(3), the Board recognizes that if the standard notice is used, the utility is only required to file a copy with the Board, with the rates that are being proposed, five days prior to sending the notice to customers. The nonstandard approach requires more information at an earlier time in order to provide the Board the type of details that the Board uses to determine the appropriate number and locations of consumer comment meetings. Black Hills proposed three in-person consumer comment meetings, with an additional virtual meeting, and the Board cannot determine whether this number is sufficient without the information applicable to this waiver request. Black Hills further asserts that the requirement for the nonstandard

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notice to include estimated cost figures and estimated cost percentages for the rate increase imposes a hardship, as the figures and percentages are not yet available; however, the information will be available in late March or early April 2024. Black Hills also states: “Final and updated cost figures and cost percentages will be included in all notices that are delivered to customers and on the final version of the customer notices that is uploaded in the Board’s filing system.”

Given that the numbers are unavailable at this time and the information is anticipated to be available prior to the notices being delivered to customers, the Board finds that the requirement in 199 IAC 26.4(1)(b)(3) would pose an undue hardship on Black Hills. Black Hills will be directed to file this information with the Board at least five days prior to sending notices to its customers.

Regarding the second factor, Black Hills states that waiving the requirements of 199 IAC 26.4(1)(b)(2)(4) and (5) would not prejudice the substantial legal rights of any person. Black Hills states that the nonstandard notice complies with the requirements of Iowa Code § 476.6(2), which is sufficient to show the estimated impact of the proposed rate increase to its customers. Black Hills also states that its nonstandard notice includes information regarding how customers “can participate in the regulatory process and where more information can be found, including information on how to ask questions and receive written explanations from a Company representative.” Black Hills also notes that it has included information consistent with the additional language required by the Board in Docket No. RPU-2023-0002 to grant waivers of the same subrules. With the additional language included in the nonstandard notice, the Board finds that the second factor is met with regard to 199 IAC 26.4(1)(b)(2)(4) and (5).

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With regard to 199 IAC 26.4(1)(3), the standard notice and procedure requires a company to file the information five days prior to the mailing of notices. Because Black Hills will file this information with the Board at least five days prior to sending notices to customers, the substantial legal rights of persons will not be prejudiced by the waiver of this subrule.

Regarding the third factor, Black Hills asserts that waivers are appropriate for Board rules 199 IAC 26.4(1)(b)(2)(4) and (5) and 26.4(1)(b)(3) because the requirements are not mandated by statute or any other provision of law. The Board finds that the three rules are not expressly required by any statute.

Regarding the fourth factor, Black Hills asserts that waivers of Board rules 199 IAC 26.4(1)(b)(2)(4) and (5) are appropriate as the requirements within Iowa Code § 476.6(2) and the other information included in Black Hills' nonstandard notice are sufficient to afford substantially equal protection of public health, safety, and welfare as that provided by the subrules over which waiver is requested. The Board notes that Iowa Code § 476.6(2) requires notices to include "an estimate of the total bill impact on a typical customer in each affected customer class." With this statutory requirement, the Board finds that the fourth factor is met with regard to Board rules 199 IAC 26.4(1)(b)(2)(4) and (5).

Regarding the fourth factor as applied to 199 IAC 26.4(1)(b)(3), Black Hills again points out that the "updated cost figures and cost percentages will be included in all notices that are delivered to customers and on the final version of the customer notices that is uploaded in the Board's filing system." Because Black Hills will be filing the final cost figures and cost percentages with the Board at least five days prior to the mailing of customer notices, the Board finds that the fourth factor is met for 199 IAC 26.4(1)(b)(3).

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For these reasons, the Board finds Black Hills sufficiently supported its request under 199 IAC 1.3 to waive the Board's rules relating to the content and timing of its proposed nonstandard notices. Therefore, the Board will grant Black Hills' requests to waive Board rules 26.4(1)(b)(2)(4) and (5), and 26.4(1)(b)(3), as to this particular set of facts.

### **PROPOSED NOTICES**

Black Hills' revised notice contains the information required by the Board's rules at 199 IAC 26.4(1)(b)(2)(1)-(13), except for the information over which waiver is being requested. After review, the Board finds Black Hills' revised nonstandard customer notice, filed on March 18, 2024, is not deficient.

### **CONSUMER COMMENT MEETINGS**

Black Hills requests to provide its customers with in-person and virtual opportunities to present comments about Black Hills' proposed general rate increases and general service quality.<sup>1</sup> The Board agrees that Black Hills' plan to offer meetings in Council Bluffs, Newton, and Dubuque, as well as conduct a virtual meeting, will provide a variety of opportunities to participate, given the broad reach of its service territory. The Board reserves the right to schedule additional consumer comment meetings after Black Hills files final and updated cost figures and cost percentages with its updated customer notices.

The Board will schedule three in-person consumer comment meetings and one virtual meeting, as set forth below in Ordering Clause 3. Black Hills will be required to provide a presentation at each consumer comment meeting that explains the pertinent

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<sup>1</sup> Persons with specific service complaints must follow the complaint procedure specified in the Board's rules at 199 IAC 6.2.

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points of the proposal, including the rate increase, the requested changes to rates and riders, and an overview of the changes, as applied to residential and other customer classes. Black Hills shall also reasonably respond to any questions directed to the utility, either at the individual consumer comment meetings or in a subsequent filing in the docket, as set out in 199 IAC 26.9(2).

The Board will permit Black Hills to secure the venues and coordinate the audio/visual aspects for the in-person meetings. The consumer comment meetings will be held on the following dates and the listed locations:

- Council Bluffs: 5:30 p.m. Monday, July 22, 2024 – Council Bluffs Public Library, 400 Willow Ave., Council Bluffs
- Newton: 5:30 p.m. Tuesday, July 23, 2024 – DMACC Conference Center, 600 N. Second Ave. W., Newton
- Dubuque: 5 p.m. Monday, August 5, 2024 – Carnegie-Stout Public Library, 360 W. 11th St., Dubuque
- Virtual: 11:30 a.m. Tuesday, August 6, 2024 – Link to be provided on the Board's Hearing and Meeting Calendar at [iub.iowa.gov](http://iub.iowa.gov)

## **ORDERING CLAUSES**

### **IT IS THEREFORE ORDERED:**

1. The February 26, 2024 Request for Waivers filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, regarding portions of 199 Iowa Administrative Code rules 26.4(1)(b)(2)(4) and (5), and 26.4(1)(b)(3), is granted.

2. The nonstandard notices of rate increase filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, on February 26, 2024, are approved as revised on March 18, 2024.

3. Consumer comment meetings to allow the company to explain its proposal and receive comments from the general public shall be held on the four dates and at the locations provided in this order. Persons with disabilities requiring assistive services or



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devices to observe or participate in a consumer comment meeting should contact the Utilities Board at (515) 725-7300 or customer@iub.iowa.gov at least five days in advance of the scheduled meeting date to request appropriate arrangements.

4. Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, is required to file its final notices with the Board no later than five days prior to sending the notices to customers. The final notices shall include final and updated cost figures and cost percentages.

**UTILITIES BOARD**

Erik M. Helland 2024.03.26  
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Joshua Byrnes Date: 2024.03.26  
14:00:04 -05'00'

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ATTEST:

Keetah A Horras Date: 2024.03.26  
15:51:42 -05'00'

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Sarah Martz Date: 2024.03.26  
14:42:10 -05'00'

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Dated at Des Moines, Iowa, this 26th day of March, 2024.