

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC d/b/a/ BLACK HILLS ENERGY	DOCKET NOS. SPU-2015-0039, TF-2015-0352
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**ORDER GRANTING MOTION FOR LEAVE TO AMEND APPLICATION AND  
REQUIRING FILING OF NEW CUSTOMER NOTICE**

(Issued May 17, 2016)

**PROCEDURAL BACKGROUND**

On November 24, 2015, Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy (BHE), filed with the Utilities Board (Board) a request for approval of tariff and other relief, which BHE states is a "request for approval of tariffs that establish minimum safety standards for farm taps as a condition of service and creation of a mandatory testing program; utility replacement and ownership of customer-owned natural gas service lines; authorization for recovery of replacement capital costs; and request for an accounting order to defer testing costs until the company's next general rate case."

On December 10, 2015, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed an objection and requested that this matter be docketed for further investigation. The Board docketed this matter as Docket No. SPU-2015-0039 on December 23, 2015, and required interventions to be made on or before January 11, 2016. On January 11, 2016, Northern Natural Gas

Company (Northern) filed a Petition to Intervene in Support and Comments pursuant to 199 IAC 7.13. The Board granted Northern's intervention on February 10, 2016.

On January 22, 2016, BHE filed a response to the Board's December 23, 2015, order. The response included a proposed customer notice to be sent to all affected farm tap customers. On February 4, 2016, OCA filed a response objecting to the proposed notice and requesting the notice be rejected by the Board.

BHE held customer focus groups in Webster City on February 11, 2016, Waukee on March 1, 2016, and Dike on March 3, 2016, to discuss the proposed plan. An informal workshop also took place on March 11, 2016, at the Board's offices in Des Moines.

On April 25, 2016, BHE filed a Motion for Leave to Amend Application. BHE states the amendment to its application addresses the concerns raised in the focus groups and workshop and provides additional options for the Board to consider regarding the farm taps at issue in this matter. BHE filed a revised amendment on April 27, 2016, addressing some errata in its previous filing. On May 3, 2016, OCA filed a response to BHE's proposed amendment to its application.

#### **MOTION FOR LEAVE TO AMEND**

BHE filed its motion for leave to amend on April 25, 2016. BHE states that the amendment of the original application is to allow it to present a proposal that reflects the input it received from the other parties and customers during the workshop and focus groups.

### **OCA OBJECTIONS**

OCA's May 3, 2016, response did not object to BHE's procedural act of filing of the amendment. However, OCA did raise in its response several objections to the proposed plan to test and replace customer-owned service lines which are referred to as "farm taps" in this docket. OCA agrees that there are safety issues related to the installation and testing of farm taps. OCA's objections to the plan proposed by BHE to address this safety issue are as follows:

- A. OCA believes that the Board extension rules at 199 IAC 19.3(10) should be followed for replacement of farm taps unless BHE receives a waiver of these rules from the Board.
- B. OCA objects to the proposal for recovery of the costs associated with BHE's plans. Specifically, OCA objects to BHE being permitted to hold the costs in a regulatory asset account for inclusion in rates in BHE's next rate case and eventually being recovered from all general service customers.
- C. OCA states that notice to all general service customers should be required since those customers would be required to pay some or all of the costs of implementing the BHE farm tap plan.
- D. OCA argues that BHE has not shown that its current rates are not sufficient to cover the operation and maintenance costs associated with the farm tap plan. OCA presented its calculations of BHE returns on equity for the past three years.

E. OCA argues that approval of the farm tap plan would constitute single issue ratemaking and violate established rate making principles. According to OCA, the farm tap proposal would allow BHE to recover 100 percent of the costs associated with the farm tap plan and this is not consistent with regulatory principles.

### **BOARD ANALYSIS**

The Board has reviewed the original proposed farm tap plan, the amendment filed on April 25, 2016, and OCA's objections. An amendment to a pleading may be allowed at any time during the pendency of the proceeding upon just and reasonable terms. 199 IAC 7.9(3). BHE has filed this amendment prior to a hearing being scheduled or a formal procedural schedule being set. It does not appear any of the parties or potentially affected customers will be prejudiced by allowing the amendment to the application. There also have not been any objections to the motion itself; OCA's objections are based on the substance of the amendment, not the procedural motion allowing the amendment. The Board grants BHE's motion to amend the application.

The Board agrees with OCA that the amended plan, if approved, could have a rate impact on all general service customers. Though the impact may not be immediate and might not occur until BHE's next general rate case, there could still be an impact. Consequently, notice to all customers is required pursuant to Iowa Code § 476.6. The notice previously filed by BHE is not sufficient. BHE's filed notice states that "the cost of replacing fuel lines that do not meet safety standards would be

paid by Black Hills Energy.” The notice does not provide any notice to customers that their rates might be affected by the proposal; whether immediately or in the future with BHE’s next rate case. Nor does it state that affected farm tap customers could potentially be required to pay either advances or contributions for some line replacements. Instead, it implies that BHE and its shareholders will bear the costs of the program.

The Board will require BHE to file a new draft customer notice for Board review and approval. The notice should include a brief description of the plan, provide notice to customers that their rates may be impacted, and provide an estimate of the potential rate impact on future customers.

The Board will schedule a new date to allow affected customers an opportunity to intervene in this matter at the time it issues an order approving the customer notice.

The Board also considers it important that there be customer comment meetings in the areas where farm tap customers are located so that those farm tap customers who do not intervene can comment on the proposed plan. The Board will provide the dates and locations of the customer comment meetings for inclusion in the notice at the time it issues an order approving the customer notice.

The Board considers the other issues raised by OCA to be substantive issues that will need to be addressed after the notice is approved by the Board and sent to customers, the customer comment meetings are held, and any interventions have been addressed. The Board will set a date for a scheduling conference for inclusion

in the notice at the time it issues an order approving the customer notice and setting a new intervention date.

### ORDERING CLAUSES

#### IT IS THEREFORE ORDERED:

1. The Motion for Leave to Amend Application filed by Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy on April 25, 2016, is granted.
2. Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy shall file a new customer notice for Board review and approval as described in this order. The notice shall be filed on or before May 27, 2016.

### UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano  
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 17<sup>th</sup> day of May 2016.