

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

**In the Matter of the Application of)
Black Hills/Kansas Gas Utility)
Company, LLC, d/b/a Black Hills)
Energy, for Approval of the)
Commission to Make Certain Changes)
in its Rates for Natural Gas Service)**

Docket No. 25-BHCG-298-RTS

DIRECT TESTIMONY OF ROBERT DANIEL

ON BEHALF OF

**BLACK HILLS/KANSAS GAS UTILITY
COMPANY, LLC, d/b/a BLACK HILLS ENERGY**

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EXHIBIT

KSG Direct Exhibit RD-1	Education, Employment History and Professional Experience
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List of Acronyms

2014 Rate Proceeding	Black Hills/Kansas Gas Utility Company, LLC’s 2014 Rate Review based upon a test period ending December 31, 2013 (Docket No. 14-BHCG-502-RTS)
2021 Rate Proceeding	Black Hills/Kansas Gas Utility Company, LLC’s 2021 Rate Review based upon a test period ending December 31, 2020 (Docket No. 21-BHCG-418-RTS)
AAO	Accounting Authority Order
ADIT	Accumulated Deferred Income Taxes
AVTS	Ad Valorem Tax Surcharge Rider
ARAM	Average Rate Assumption Method
ARP	Accelerated Replacement Plan
“Black Hills” or “the Company”	Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy
BHC	Black Hills Corporation
BHSC	Black Hills Service Company
BHUH	Black Hills Utility Holdings, Inc.
CCOSS	Class Cost of Service Study
Commission	Kansas Corporation Commission
COR	Cost of Removal
CWIP	Construction Work in Progress
DDIT	Deficient Deferred Income Taxes
EDIT	Excess Accumulated Deferred Income Taxes
GSRS	Gas System Reliability Surcharge
HB 2585	Kansas Legislature House Bill No. 2585 – exempts certain public utilities from state income taxation for years ending on or after January 1, 2021
NGSH	Natural Gas Safe Harbor IRS Revenue Procedure 2023-15 released April 2024
OPEB	Other Post Employment Benefits
Pandemic	Global COVID-19 Pandemic
PGA	Purchased Gas Adjustment

PLR	IRS Public Letter Ruling
<i>Pro forma</i> Period	October 1, 2024, through September 30, 2025 (Capital and O&M)
ROE	Return on Equity
ROR	Rate of Return
Storm Uri	Winter Weather Event of February 2021
TA Rider	Tax Adjustment Rider
TCJA	Tax Cuts and Jobs Act
TCJA Docket	Kansas Corporation Commission Docket No. 18-GMIX-248-GIV
Test Year	Historical based on 12 months ending September 30, 2024 (10/1/2023 to 9/30/2024)
WNA	Weather Normalization Adjustment

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Robert Daniel, and my business address is 655 E. Millsap Road,
4 Fayetteville, AR 72703.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Black Hills Service Company, LLC. (“BHSC”). BHSC is a wholly
7 owned subsidiary of Black Hills Corporation (“BHC”). I am the Director of Regulatory
8 for Arkansas and Kansas.

9 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

10 A. I am testifying on behalf of Black Hills/Kansas Gas Utility Company, LLC (“Black
11 Hills” or “the Company”). Black Hills is a wholly owned subsidiary of Black Hills
12 Utility Holdings, Inc. (“BHUH”). BHUH is a wholly owned subsidiary of BHC.

13 **II. STATEMENT OF QUALIFICATIONS**

14 **Q. WILL YOU PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND
15 BUSINESS EXPERIENCE?**

16 A. My education, employment history, and professional experience are provided on KSG
17 Direct Exhibit RD-1.

18 **Q. WHAT ARE YOUR CURRENT JOB RESPONSIBILITIES?**

19 A. I am responsible for all regulatory matters for the Company’s regulated natural gas
20 utilities located in the states of Arkansas and Kansas. In this role, I oversee and
21 participate in the development of regulatory strategy, policy, tariffs, and regulatory
22 filings in Arkansas and Kansas.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**
2 **BODIES?**

3 A. Yes. I have previously provided written testimony before the Kansas Corporation
4 Commission (“Commission”) in several dockets. Additionally, I have testified before
5 the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

6 **Q. ARE YOU SPONSORING ANY EXHIBITS?**

7 A. Yes, I am sponsoring the following Exhibit:

KSG Direct Exhibit RD-1	Education, Employment History, and Professional Experience
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8 **Q. HAVE THE TESTIMONY AND EXHIBITS THAT YOU ARE SPONSORING**
9 **BEEN PREPARED BY YOU OR UNDER YOUR SUPERVISION?**

10 A. Yes.

11 **III. PURPOSE OF TESTIMONY**

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my Direct Testimony is to (i) sponsor and summarize the Rate
14 Application; (ii) provide a summary of the topics other Company witnesses will address
15 and support through their testimony and exhibits; (iii) describe the primary drivers
16 behind the Company’s Rate Application; (iv) outline the Company’s proposal for an
17 abbreviated rate case following the final order in the instant docket; and (v) support the
18 Company’s Excess Deferred Income Tax (“EDIT”) amounts and refunds to customers
19 through the Tax Adjustment (“TA”) Rider.

1 **IV. SUMMARY OF THE COMPANY’S RATE APPLICATION**

2 **Q. PLEASE SUMMARIZE THE COMPANY’S RATE APPLICATION.**

3 A. The Company’s rate application requests a \$21.6 million base rate increase based on a
4 Test Year for the twelve months ending September 30, 2024, as adjusted to include
5 planned capital additions through September 30, 2025, along with other known and
6 measurable changes. When considering the approximate \$4.4 million in total Gas
7 System Reliability Surcharge (“GSRS”) revenues currently being collected from
8 customers through the end of the *Pro Forma* period, the net incremental revenue
9 increase and net impact to customers resulting from the Company’s request in this filing
10 is \$17.2 million. The total revenue requirement proposed by the Company is
11 \$77,555,362, as discussed in more detail in the direct testimony of Ms. Samantha K.
12 Johnson. Further, as discussed in more detail later in my testimony, this net revenue
13 increase will be partially offset by a refund of EDIT through the Company’s TA Rider.

14 As supported by Company Witnesses Mr. Adrien M. McKenzie, Ms. Johnson,
15 and Mr. Thomas D. Stevens in their direct testimonies, the Company’s requested
16 revenue increase is based on an overall after-tax rate of return (“ROR”) of 7.63%,
17 including a 10.5% return on equity (“ROE”), 4.71% cost of debt, and a capital structure
18 with 50.44% equity and 49.56% debt based on the Company’s capital structure as of
19 September 30, 2025. The proposed 7.63% ROR is needed so that the Company has a
20 reasonable opportunity to earn a fair return on the investments it has made in Kansas
21 since its 2021 Rate Proceeding and going forward, address rising operating and
22 maintenance costs, as well as to support the Company’s ongoing integrity and

1 reliability investments in future GSRS filings.

2 Black Hills' capital investment of approximately \$188 million since its 2021
3 Rate Proceeding was made in integrity and reliability projects, growth, and general
4 plant. Approximately \$47 million of net plant investment in integrity and reliability
5 projects is currently being recovered through the GSRS and will be rolled in to base
6 rates in this Application. This amount was approved by the Commission in July 2024
7 for eligible reliability and integrity investments made through March 2024. In addition,
8 the Company is requesting recovery of other gas system investment in growth,
9 reliability and general plant that does not qualify for GSRS recovery. In total, the
10 Company's capital additions will have grown by approximately \$118 million from its
11 2021 Rate Proceeding through September 30, 2025, the end of the *Pro Forma* Period
12 in the Company's request.

13 In addition to the approximate \$118 million increase in capital additions
14 included in this filing, the Company is also seeking to ensure new base rates are
15 established that recover the Company's ongoing operations and maintenance expense
16 and administrative and general expense needed to provide safe and reliable natural gas
17 delivery service to customers. Adjustments to the Test Year have been included in this
18 application in several areas, as detailed in Section 3, Schedule 2 of the Rate Application
19 and as explained in Section 9, Schedule 2 of the Rate Application and supported by
20 various Company witnesses as discussed in the Company witness overview provided
21 in Section V of my testimony.

1 **Q. HOW LONG HAS BLACK HILLS OPERATED WITHOUT A NEW REVENUE**
2 **INCREASE?**

3 A. The Company's last new revenue increase occurred in the 2014 Rate Proceeding. The
4 Settlement agreement included a total base rate increase of \$5.23 million. Of that, Black
5 Hills received new revenue, not including GSRS revenue already being collected, of
6 approximately \$764 thousand. In the 2021 Rate Proceeding, base rates increased by
7 \$6.6 million. This increase only included a rebasing of GSRS revenue the Company
8 was currently collecting from customers. Black Hills received no new revenue in that
9 case. Since 2014, when the Company last received new revenue from a rate case
10 proceeding, the Consumer Price Index has risen by approximately 35%.¹ Black Hills
11 has worked diligently to manage capital spending and operating expenses over the past
12 decade and has delayed filing a rate application for over three years in these changing
13 and difficult market and operating conditions. For the past decade and more, Black
14 Hills' customers have significantly benefitted from the lack of new revenue increases.

15 The request in this case reflects the current operating environment for the
16 Company and the need for additional new revenue to have an opportunity to earn a fair
17 rate of return.

18 **Q. WHAT IS THE IMPACT ON A TYPICAL RESIDENTIAL CUSTOMER AS A**
19 **RESULT OF THE COMPANY'S PROPOSED INCREASE?**

20 A. A typical residential customer, using an average of 50 therms per month, will
21 experience an average monthly total bill increase of \$11.07, or approximately 17.6%.

¹ https://www.bls.gov/data/inflation_calculator.htm. January 2015 through December 2024.

1 **Q. IS BLACK HILLS PROPOSING A CHANGE IN ITS DEPRECIATION RATES**
2 **AS PART OF ITS RATE APPLICATION?**

3 A. No. The Company is relying on the depreciation rates approved by the Commission as
4 part of the settlement agreement in the 2021 Rate Proceeding.

5 **Q. PLEASE EXPLAIN THE COMPANY’S CLASS COST OF SERVICE STUDY**
6 **(“CCOSS”) AND RATE DESIGN.**

7 A. The direct testimony of Company witness Mr. Ethan J. Fritel contains a detailed
8 explanation of the class cost of service study, rate design, and weather normalization
9 proposals.

10 **Q. IS THE COMPANY PROPOSING ANY CHANGES TO ITS TARIFF WITHIN**
11 **THIS RATE APPLICATION, OTHER THAN CHANGES NECESSARY TO**
12 **EFFECTUATE THE COMPANY’S PROPOSED BASE RATES?**

13 A. Yes. The Company is proposing certain modifications to its tariff, as discussed in the
14 direct testimonies of Company witnesses Mr. Nicholas W. Smith and Mr. Samuel B.
15 Tobin.

16 **V. COMPANY WITNESSES**

17 **Q. WHO ARE THE COMPANY’S WITNESSES PROVIDING SUPPORTING**
18 **TESTIMONY IN THIS PROCEEDING?**

19 A. The following witnesses are filing testimony in support of the Company’s Application:

20 **1. Robert Daniel, Director of Regulatory**

21 The purpose of my testimony is set forth above.

1 **2. Mr. Marc T. Eyre, Vice President – Kansas Operations**

2 Mr. Eyre provides a general overview of the Company’s Kansas service territory and
3 gas operations and discusses the overall need for the Company’s rate application and
4 requested revenue increase. He further discusses the Company’s integrity, reliability,
5 and growth capital expenditures, including a discussion of Black Hills’ ARP and the
6 importance of GSRS in supporting Black Hills’ ongoing investments.

7 **3. Ms. Samantha K. Johnson, Director of Regulatory**

8 Ms. Johnson sponsors the revenue requirement schedules which support the
9 Company’s requested increase in base rate revenues in its rate application. Her
10 testimony describes the Test Year rate base, revenues, and operating expenses, with
11 known and measurable adjustments, to reflect the revenue needed to recover the costs
12 to provide service to Black Hills’ customers and for the Company to have the
13 opportunity to earn a fair return. Ms. Johnson supports the Company’s proposal for
14 regulatory accounting treatment of insurance costs through a tracker. Lastly,
15 Ms. Johnson also supports the costs allocated by BHSC to Black Hills under the Cost
16 Allocation Manual.

17 **4. Mr. Kris J. Pontious, Senior Compensation Manager**

18 Mr. Pontious supports employee benefit and compensation costs included in the
19 revenue requirement for the Test Year and the compensation-related adjustments that
20 are included in this filing. Mr. Pontious describes the overall benefit and compensation
21 programs for BHC employees, including employees of Black Hills, as well as the steps
22 undertaken by BHC to evaluate its overall compensation programs. Further, Mr.

1 Pontious addresses the Commission’s policy on incentive compensation as it applies to
2 the incentive compensation included in the rate application submitted by Black Hills in
3 this proceeding.

4 **5. Mr. Thomas D. Stevens, Vice President, Treasurer**

5 Mr. Stevens discusses the corporate finance philosophy of BHC, provides support for
6 Black Hills’ proposed capital structure, cost of long-term debt and cost of equity,
7 discusses recent debt financing activity, and discusses Black Hills’ proposed
8 methodology to be applied in this and future rate applications for allocating long-term
9 debt from BHC to its subsidiaries. Mr. Stevens also supports Black Hills’ proposals
10 regarding pension and retiree medical expenses and the treatment of balances in the
11 accounting tracking mechanisms related to those expenses.

12 **6. Mr. Ethan J. Fritel, Senior Regulatory Analyst**

13 Mr. Fritel sponsors the Class Cost of Service Study and Rate Design model.
14 Accordingly, Mr. Fritel discusses the billing determinants used in the Class Cost of
15 Service Study, presents adjustments to the billing determinants, discusses the weather
16 normalization adjustment (“WNA”) and WNA coefficients, and provides Test Year
17 billing determinants. He also sponsors the customer class load factor analysis and
18 sponsors the resulting proof of revenue from the proposed rate design.

19 **7. Mr. Nicholas W. Smith, Regulatory Manager**

20 Mr. Smith supports the Company’s tariff modifications proposed in this application,
21 including but not limited to, modifications to certain provisions of the Company’s
22 Transportation Services Provisions, and other tariff changes, including those within the

1 Company's General Rules, Regulations, Terms and Conditions. Mr. Smith provides
2 support for certain expense adjustments discussed within Ms. Johnson's testimony.

3 **8. Mr. Adrien M. McKenzie, President - Financial Concepts and Applications**

4 Mr. McKenzie supports the proposed cost of common equity used in the capital
5 structure to determine the weighted average cost of capital incorporated in the Revenue
6 Requirement Study. Mr. McKenzie discusses current capital markets and provides an
7 expert assessment of the range of reasonable rates of return on equity for Black Hills
8 of 10.0% to 11.0%. Mr. McKenzie's testimony supports a 10.5% return on equity
9 requested by Black Hills.

10 **9. Mr. Samuel B. Tobin – Senior Manager of Commercial Services**

11 Mr. Tobin provides support for certain changes and modifications to the Company's
12 transportation schedules within its tariff.

13 **VI. RATE APPLICATION AND PRIMARY DRIVERS**

14 **Q. WHEN WAS THE LAST RATE PROCEEDING FOR BLACK HILLS?**

15 A. The last rate proceeding for Black Hills Kansas' customers was in 2021 based on a test
16 period ending December 31, 2020 ("2021 Rate Proceeding").

17 **Q. PLEASE SUMMARIZE EACH OF THE PRIMARY DRIVERS FOR THIS**
18 **RATE APPLICATION.**

19 A. Each primary driver for this rate Application is summarized below:

20 **1. Increased Operating Expenses**

21 A primary driver for the revenue deficiency in this rate Application is an
22 increase in the Company's operating expenses since the 2021 Rate Proceeding.

1 According to the Consumer Price Index, prices for all goods and services have risen
2 approximately 12% since the Company's base rates were effective from the 2021 Rate
3 Proceeding.² While Black Hills has prudently managed its expenses since that time,
4 the Company has not been immune to the same cost increases that our customers have
5 faced. Both the dollar value of capital investments and Black Hills' operating expenses
6 have also increased substantially as a result of the highest inflation the nation has
7 experienced in approximately 40 years. Company witness Mr. Eyre addresses these
8 items in more detail.

9 **2. Rate of Return – Cost of Debt, Return on Equity, and Capital Structure**

10 The Company's cost of debt has risen since the 2021 Rate Proceeding due to
11 inflation, rising bond yields, and refinancing activities. Customers have benefited since
12 the 2021 Rate Proceeding by paying a lower cost of debt than the Company is incurring.

13 The Company's cost of debt has increased from 3.91% as presented in the 2021
14 Rate Proceeding to a projected 4.71% at the end of the *Pro Forma* Period in this docket.
15 Black Hills' requested return on equity is 10.5%. The direct testimonies of Mr. Stevens
16 and Mr. McKenzie discuss these issues in greater detail.

17 Rising debt costs for the Company and industry as a whole have contributed to
18 investors' expectations of a higher corresponding return on equity. Of note, since rates
19 were effective from the Company's 2021 Rate Proceeding, the 10-year and 30-year
20 Treasury Bonds have increased by 298 and 283 basis points, respectively.³ While these

² https://www.bls.gov/data/inflation_calculator.htm. January 2022 through December 2024.

³ <https://fred.stlouisfed.org>. January 1, 2022, through January 17, 2025.

1 factors are not a one-for-one measure of the appropriate return on equity, it very much
2 indicates that a corresponding increase in the allowed return on equity is necessary.
3 Further, Mr. McKenzie discusses the risk premium benchmark relied on by Staff in
4 previous rate cases and its impact on the ROE. His results indicate an ROE of 10.51%,
5 nearly identical to the Company's requested ROE of 10.5%, is reasonable. Lastly, Mr.
6 McKenzie presents evidence showing the November Baa rated average utility bond
7 yield was 5.77%. Since that time, average utility bond yields have risen above 6%,
8 further indicating a commensurate higher ROE is needed.

9 Mr. Stevens' direct testimony discusses the Company's capital structure as it
10 relates to common industry practice for the capitalization of its regulated operating
11 units and Mr. McKenzie supports nationwide decisions that reflect this practice in the
12 allowed common equity percentage.

13 **3. Capital Investments for Safe and Reliable Service**

14 Much of Black Hills' \$118 million in capital investments since the 2021 Rate
15 Proceeding are attributed to integrity, reliability, and growth in the Company's system
16 and are necessary to continue providing safe and reliable service to its customers. A
17 portion of these investments qualify for recovery through the GSRS.⁴ The Company's
18 most recent GSRS filing, approved by the Commission in Docket No. 24-BHCG-727-

⁴ In 2006, Senate Bill 414, the Gas Safety and Reliability Policy Act, was passed into law. Under this law, a utility "may file a petition and proposed rate schedules with the commission to establish or change GSRS rate schedules that will allow for the adjustment of the natural gas public utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements." In 2018, and effective January 1, 2019, the Gas Safety and Reliability Policy Act was amended to allow recovery of costs relating to additional safety investments and provide an increase to the monthly customer charge limit.

1 TAR on May 13, 2024, included cumulative qualifying investments made from July
2 2021 through March 2024. In total, that GSRS filing included approximately \$47
3 million in net plant additions associated with qualifying integrity and reliability
4 investments. Since July 2021, the Company has continued to make investments to
5 replace obsolete pipe in Kansas in support of Black Hills' ARP, as further discussed in
6 the testimony of Company witness Mr. Eyre. As part of its Rate Application the
7 Company will incorporate or "roll in" the existing GSRS revenue requirement into base
8 rates and reset the GSRS to zero, as discussed below.

9 **4. Continuation of the Gas System Reliability Surcharge ("GSRS")**

10 Per K.S.A. § 66-2203, a natural gas public utility must have filed a general rate
11 proceeding within the last 60 months to remaining eligible for the Commission to
12 approve their GSRS filing. This Rate Application extends the Commission's ability to
13 approve the Company's future GSRS filings and effectively resets the timeframe for
14 eligible GSRS filings. The GSRS mechanism allows the Company to adjust rates
15 between general rate cases, supporting ongoing system integrity and reliability
16 investments critical to the ARP's progression. These GSRS-eligible projects are
17 necessary for Black Hills to safely and reliably provide natural gas service to the
18 Company's customers. Revenues and the associated assets being collected through the
19 GSRS currently will be "rolled in" to base rates in this proceeding. Once the
20 Company's proposed rates are approved and become effective pursuant to the
21 Commission's final order in this proceeding, the GSRS charge will be reset to zero.

1 **5. Abbreviated Rate Case Request**

2 The Company is requesting Commission approval and authority to file an
3 abbreviated rate case following the conclusion and final order in this rate case
4 proceeding. The Company’s abbreviated rate case will allow (a) the Commission to
5 thoroughly consider projects included within the abbreviated case instead of including
6 project estimates in this proceeding, (b) more timely recovery of the Company’s
7 necessary capital investments, and (c) a delay in the Company’s first GSRS filing for
8 qualifying investments.

9 The abbreviated rate proceeding following this proceeding will be limited in
10 scope. In addition, the abbreviated case will benefit all stakeholders by providing for
11 orderly growth and development of the Company’s gas distribution system under full
12 purview of the Commission and Black Hills’ customers. An abbreviated rate
13 proceeding will benefit Black Hills in that the Company will be able to recover the cost
14 of capital investment as set forth in Kansas law.⁵ That Kansas statute grants a utility
15 one year from the date of a general filing to recover the costs of construction projects
16 that are commenced, completed, and placed in service. The abbreviated case capital
17 projects will be reviewed by the Commission to ensure that the capital project
18 expenditures were efficient and prudent.⁶

19 **6. Deferred Accounting Tracker Request – Insurance Costs**

20 Black Hills is requesting to set a new level of insurance costs to be included in

⁵ K.S.A. § 66-128(b)(2).

⁶ K.S.A. § 66-128(b)(3).

1 base rates in this Application. Additionally, the Company is requesting a deferred
2 accounting tracker, similar to the Pension and Retiree Healthcare tracker Black Hills is
3 authorized to use, to track insurance costs compared to the base rate level established
4 in this case. As Ms. Johnson states in her direct testimony, these costs are largely
5 outside of management control. In addition, these costs are variable, unpredictable, and
6 expected to increase measurably going forward. The magnitude of these costs in Kansas
7 are certainly material and are required to be paid. New premium invoices are typically
8 received in July of each year for the majority of policies and October of each year for
9 the remainder. The approval of a tracking mechanism in this case will allow the
10 Company to manage its Kansas business more effectively without the concern of large
11 premium swings which could potentially result in the need for a rate review much
12 sooner than it otherwise would.

13 **VII. ABBREVIATED RATE CASE PROPOSAL**

14 **Q. PLEASE OUTLINE THE COMPANY’S REQUEST FOR AN ABBREVIATED**
15 **RATE CASE PURSUANT TO K.A.R 82-2-231(b)(3)(A).**

16 A. Pending Commission approval in the instant docket, Black Hills’ will file an
17 application for an abbreviated rate case to: 1) “true-up” plant investments through
18 September 30, 2025; 2) seek recovery for plant in service through December 31, 2025;
19 and 3) address other items that may arise during this rate case.

1 **Q. NOTWITHSTANDING THE COMPANY’S ABBREVIATED RATE CASE**
2 **REQUEST, HOW ARE PLANT RELATED ITEMS PRESENTED IN THE**
3 **REVENUE REQUIREMENT STUDY (“RRS”)?**

4 A. In Black Hills’ Application and RRS, as discussed in more detail by Company witness,
5 Ms. Johnson, the Company has requested full inclusion of plant in service through the
6 end of the *Pro Forma* Period, September 30, 2025. This request includes all attendant
7 impacts to plant in service: accumulated depreciation, depreciation expense, and
8 accumulated deferred income taxes. Including these items through the end of the *Pro*
9 *Forma* Period is consistent with K.S.A. § 66-128(b)(1) & (2) which states:

10 (b)(1) For the purposes of this act, except as provided by subsection
11 (b)(2), property of any public utility which has not been completed
12 and dedicated to commercial service shall not be deemed to be used
13 and required to be used in the public utility’s service to the public.

14 (2) Any public utility property described in subsection (b)(1) shall
15 be deemed to be completed and dedicated to commercial service if:
16 (A) Construction of the property will be commenced and completed
17 in one year or less.

18 The parameters of the abbreviated rate case proposal will take precedence over
19 the Company’s requested treatment for plant in service in its Application should the
20 Commission approve the abbreviated rate case proposal. If the Commission does not
21 approve the abbreviated rate case proposal, then it should approve the Company’s
22 requested treatment for plant in service through the end of the *Pro Forma* Period,
23 September 30, 2025, pursuant to K.S.A. § 66-128(b)(1) & (2).

1 **Q. PLEASE EXPLAIN HOW PLANT INVESTMENTS THROUGH SEPTEMBER**
2 **30, 2025, WILL BE TREATED IN THIS DOCKET.**

3 A. Regarding the Company's abbreviated rate case request, Black Hills proposes that any
4 Construction Work in Progress ("CWIP") on the Company's books and records at the
5 end of February 2025, that is expected to be placed into service by September 30, 2025,
6 be included in rate base in this proceeding. The amount of CWIP determined to be in
7 service by September 30, 2025, will earn a return ON the investment, but not a return
8 OF investment (depreciation expense).

9 During the abbreviated rate case, pending Commission approval, the Company
10 will true-up this estimated plant in service to actual plant in service through September
11 30, 2025. Any over- or under-recovered amounts will be subject to a carrying charge
12 to be determined by the outcome of this docket. The abbreviated rate case will also
13 true-up any associated accumulated depreciation, depreciation expense, and
14 accumulated deferred income taxes ("ADIT") through September 30, 2025, for this
15 plant in service amount.

16 Second, the Company plans to update its plant in service through December 31,
17 2025, in the abbreviated rate case. Black Hills will provide the necessary accumulated
18 depreciation, depreciation expense, and ADIT associated with these investments in its
19 application for the abbreviated rate case.

20 Lastly, if necessary, the abbreviated rate case can address items that may remain
21 outstanding.

1 **Q. WILL AN ABBREVIATED RATE CASE BE BENEFICIAL FOR CUSTOMERS**
2 **OF BLACK HILLS?**

3 A. Yes. If the Commission approves the Company's request for an abbreviated rate case,
4 the timing of Black Hills' first GSRS filing, post-rate case, will be delayed by
5 approximately nine months. This provides direct benefits to customers by delaying this,
6 and subsequent GSRS rate increase, far beyond when the Company would have
7 otherwise made this filing.

8 **Q. HOW DOES THE COMPANY PLAN TO ENSURE THE ABBREVIATED**
9 **RATE CASE PROCESS IS SIMPLE AND EFFICIENT FOR ALL PARTIES?**

10 A. As outlined above, Black Hills is focused on doing all it can to keep the abbreviated
11 rate case process straightforward, efficient, and timely. With limited witnesses,
12 supporting testimony, and required schedules, the Company desires this process to be
13 as streamlined as possible.

14 **VIII. TAX ADJUSTMENT RIDER AND EXCESS DEFERRED INCOME TAX**

15 **Q. WHAT IS THE DIFFERENCE BETWEEN PROTECTED AND NON-**
16 **PROTECTED EXCESS DEFERRED INCOME TAXES ("EDIT")?**

17 A. Protected EDIT is the regulatory liability relating to tax rate changes for federal book
18 and tax ADIT for federal tax depreciation in Internal Revenue Code Section 168. The
19 normalization rules require that the Protected EDIT must not be returned more rapidly
20 than amortization over ARAM. Non-Protected EDIT is the regulatory liability relating
21 to tax rate changes related to any other ADIT and may be returned to customers in any
22 manner a Commission deems appropriate.

1 **Q. WHAT AMOUNTS OF EDIT HAVE BEEN REFUNDED TO CUSTOMERS**
2 **THROUGH THE TA RIDER SINCE THE 2021 RATE PROCEEDING?**

3 A. Non-Protected EDIT in the amount of \$9,020,533 has been refunded to customers
4 starting in January 2022 and ending in December 2024. These refunds were part of the
5 Settlement Agreement approved by the Commission in the 2021 Rate Proceeding.
6 Black Hills' is required to make a final true-up determination pursuant to its tariff for
7 any over- or under-refunded amounts of Non-Protected EDIT.

8 **Q. PLEASE DISCUSS THE EDIT THE COMPANY IS CURRENTLY**
9 **RETURNING TO CUSTOMERS THROUGH CURRENT BASE RATES.**

10 A. Protected EDIT is currently being refunded through base rates over the Average Rate
11 Assumption Method ("ARAM"), as approved in the 2021 Rate Proceeding.

12 **Q. HAS BLACK HILLS REFLECTED ALL OF THE IMPACTS OF THE KANSAS**
13 **LEGISLATURE HOUSE BILL NO. 2585 ("HB 2585") PUBLIC UTILITY**
14 **STATE INCOME TAX EXEMPTION IN ITS REVENUE REQUIREMENT**
15 **STUDY?⁷**

16 A. Yes. The Revenue Requirement Study reflects the impacts of the HB 2585 as follows:
17 1) State income tax rate of 0% was used to determine state income tax expense
18 and state ADIT; and
19 2) The associated Excess Deferred Income Tax ("EDIT") balance is to be returned
20 to customers via the Tax Adjustment Rider.

⁷ Docket No. 21-BHCG-099-RTS.

1 **Q. WOULD YOU PLEASE DESCRIBE THE NET EDIT THAT IS INCLUDED IN**
2 **THE REVENUE REQUIREMENT IN THIS PROCEEDING?**

3 A. TCJA EDIT is classified as follows: Protected Plant EDIT and Non-Protected Cost of
4 Removal ARAM Deficient Deferred Income Tax (“COR DDIT”). The Protected Plant
5 EDIT of \$11.97 million and the COR DDIT of \$0.71 million is found on Section 3,
6 Schedule 1, Line 13 in the net amount of \$11.26 million. This amount is a component
7 reducing the calculation of total rate base. Protected EDIT is currently being refunded
8 through base rates over the ARAM, as approved in the 2021 Rate Proceeding as a
9 reduction to income tax expense on Section 11, Schedule 4, Line 6 in the amount of
10 \$0.46 million. The remaining categories of TCJA net EDIT totaling \$1 million are
11 removed from the Revenue Requirement Study and have been returned to customers
12 outside of base rates as a bill credit via the TA Rider. This figure is reported on KSG
13 Direct Exhibit SKJ-2, Schedule C-1 lines 32, 33, and 37. These amounts are the
14 remaining Non-Protected EDIT amounts refunded in the TA Rider by the end of 2024
15 agreed to in the prior rate proceeding.

16 **Q. IF COR DDIT IS NON-PROTECTED, SHOULD IT HAVE BEEN NETTED**
17 **AGAINST THE NON-PROTECTED EDIT REFUNDS APPROVED IN THE**
18 **LAST RATE CASE?**

19 A. No. When the 2021 Rate Proceeding was filed, it was not certain whether cost of
20 removal was protected or non-protected by the normalization rules, so the COR DDIT
21 was netted in the Protected EDIT amount of \$11.99 million (Prior Rate Case - KSG
22 Direct RRS-2, schedule M-1, Line 29). In July 2022, the IRS released Private Letter

1 Ruling (“PLR”) 202230005 confirming the normalization rules did not apply to cost of
2 removal. This ruling was after the Order Approving Unanimous Settlement in Docket
3 21-BHCG-418-RTS on October 8, 2021.

4 **Q. HOW DOES BLACK HILLS PROPOSE TO COLLECT THE \$0.71 MILLION**
5 **IN COR DDIT?**

6 A. Black Hills proposes to continue to collect the COR DDIT over ARAM. It should be
7 noted that the Protected EDIT ARAM and the COR DDIT ARAM are calculated
8 entirely separate (as was done in the 2021 Rate Proceeding) and added together unlike
9 the taxpayer in PLR 20223005 where the COR was included with book depreciation
10 when calculating the Protected ARAM resulting in an inadvertent normalization
11 violation.

12 **Q. ARE THERE ADDITIONAL NON-PROTECTED FEDERAL EXCESS**
13 **DEFERRED INCOME TAX (“EDIT”) AMOUNTS TO REFUND TO**
14 **CUSTOMERS SINCE THE PRIOR RATE PROCEEDING?**

15 A. Yes. The Company will file a change in the method of accounting for tax repair
16 deductions on its 2024 federal income tax return in October 2025. This method change
17 will reclassify some Protected EDIT to Non-Protected EDIT.

18 **Q. PLEASE DESCRIBE THE CHANGE IN METHOD OF ACCOUNTING FOR**
19 **TAX REPAIR DEDUCTIONS.**

20 A. In April 2024, the IRS released Revenue Procedure 2023-15 to provide a safe harbor
21 method (“NGSH”) that taxpayers may use to determine whether to deduct or capitalize
22 expenditures to repair, maintain, replace, or improve natural gas transmission and

1 distribution property. Notably the guidance provided a safe harbor for the tax repair
2 deduction of linear distribution property. Generally, under this rule, if more than four
3 miles of distribution mains are replaced, the cost of the replacement must be
4 capitalized. However, if four miles or less of distribution mains are replaced, the cost
5 of the replacement is not required to be capitalized.⁸ Black Hills' previous tax repair
6 method for linear distribution property was replacement of ten percent of a pressure
7 zone. The new tax repair method for linear distribution property has resulted in more
8 tax deductions compared to the old method. As part of the method change, Black Hills
9 has calculated a true-up adjustment for tax repairs using the new method going back to
10 2008, which was the initial year tax repair deductions were claimed.

11 **Q. PLEASE DESCRIBE HOW THE METHOD CHANGE FOR TAX REPAIRS**
12 **RECLASSIFIES PROTECTED EDIT TO NON-PROTECTED EDIT.**

13 A. The true-up to prior years for the new tax repair method results in prior tax depreciation
14 deductions taken under 168 to be recast as tax repair deductions under IRC Section
15 162. This means the EDIT related to tax depreciation deductions in 2008 through 2017
16 that are now recast as tax repair deductions are no longer protected EDIT.

17 **Q. HAS THE COMPANY ESTIMATED THE AMOUNT OF EDIT TO BE**
18 **REFUNDED TO CUSTOMERS?**

19 A. Yes. While the exact amount of Non-Protected EDIT will not be known until the Black
20 Hills files its federal income tax return in October 2025, the Company estimates the

⁸ Some linear distribution replacements under four miles are per se capital improvements, for example, property necessary to add new customers or materially increasing capacity and cost adding cathodic protection, protective wrapping or protective coatings.

1 amount to be between \$2.7 and \$3.3 million.

2 **Q. HOW DOES BLACK HILLS PROPOSE TO RETURN THE NON-**
3 **PROTECTED EDIT TO CUSTOMERS?**

4 A. The Company proposes to refund the Non-Protected EDIT to customers through the
5 TA Rider beginning November 1st, 2025, through April 30th, 2026. This will allow
6 customers to receive the refunds during the winter heating season when bills are
7 typically higher due to higher usage.

8 **Q. SINCE THE EXACT AMOUNT OF THE EDIT REFUND WILL NOT BE**
9 **KNOWN UNTIL OCTOBER 2025, HOW DOES BLACK HILLS PLAN TO**
10 **ADDRESS IT IN THIS DOCKET?**

11 A. The Company's Application does not reflect a *pro forma* adjustment to remove the
12 estimated Protected EDIT as a result of the reclassification to Non-Protected EDIT.
13 Once the final reclassification estimate is determined, Black Hills will propose a *pro*
14 *forma* adjustment to remove the Non-Protected EDIT for tax repair deductions from
15 rate base and refund the EDIT through the TA Rider similar to the refund of Non-
16 Protected EDIT in the prior rate case, which is outside of the base rates being
17 determined in this proceeding. When the amounts are finalized with the filing of the
18 2024 income tax return in October of 2025, a true-up adjustment will be made in the
19 TA Rider. The Company proposes this true-up adjustment to the final EDIT amount to
20 occur prior to the first month where refunds are given to customers. If time does not
21 allow for a true-up prior to November 1st, 2025, the Company proposes to true-up to
22 the final EDIT amount at the end of the refund period, after April 30th, 2025. The final

1 true-up of actual amounts refunded compared to the intended refund amount will
2 encompass this true-up.

3 **Q. HOW DOES THE COMPANY PROPOSE TO ALLOCATE THE NET EDIT TO**
4 **CUSTOMER CLASSES WITHIN THE TA RIDER?**

5 A. The Company proposes to allocate the EDIT to its customer classes in the same manner
6 that rate base is allocated within the Class Cost of Service Study sponsored by Mr.
7 Fritel.

8 **Q. PLEASE DISCUSS THE PROPOSED RATE DESIGN WITHIN THE TA**
9 **RIDER.**

10 A. The proposed rate design for the EDIT refunds through the TA Rider are designed as a
11 percentage reduction to base rates for each customer class, as was done in the 2021
12 Rate Proceeding. The percentage reduction to base rates will be applied to the customer
13 charge, delivery charge, and weather normalization adjustment charge or credit. The
14 application of a percentage reduction to base rates for each customer class is designed
15 such that the TA Rider refund applies to both the fixed monthly charge and the
16 volumetric delivery charge.

17 **Q. IS THE COMPANY MAKING A CHANGE TO ITS TA RIDER SCHEDULE AT**
18 **THIS TIME?**

19 A. No. In the course of preparing this Rate Case Application, information pertaining to
20 this change in method of accounting for tax repairs was received as testimony was
21 being finalized. As a result, the Company plans to provide a red-lined version of its
22 proposed TA Rider revisions, that include my recommendations above, in its rebuttal

1 testimony.

2 **IX. RIDERS AND TRACKER MECHANISMS**

3 **Q. ARE THERE OTHER ITEMS YOU WOULD LIKE TO ADDRESS?**

4 A. Yes. As discussed in the testimony of Ms. Johnson, Black Hills supports resetting the
5 base amount for the Pension and Retiree Healthcare (OPEB) trackers and Ad Valorem
6 Tax Surcharge Rider, as well as the continuation of these mechanisms.

7 **X. CONCLUSION AND RECOMMENDATIONS**

8 **Q. WHAT ARE YOUR RECOMMENDATIONS?**

9 A. I recommend that the Commission approve the following:

- 10 • The Rate Application as filed by Black Hills in this proceeding;
- 11 • The proposed capital structure, cost of debt, and return on equity for Black
12 Hills;
- 13 • The Company's proposed deferred accounting tracker related to insurance
14 premium costs; and
- 15 • Black Hills' request for an abbreviated rate case following the final order in this
16 docket.

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes.

AFFIDAVIT OF ROBERT DANIEL

State of Arkansas)
) ss
County of Washington)

I, ROBERT DANIEL, being first duly sworn on oath, depose and state that I am the same Robert Daniel identified in the foregoing Direct Testimony; that I have caused the foregoing Direct Testimony to be prepared and am familiar with the contents thereof; and that the foregoing Direct Testimony is true and correct to the best of my knowledge, information, and belief as of the date of this Affidavit.



Robert Daniel

Subscribed and sworn to before me,
A Notary Public, in and for said County
and State, this 20th day of January, 2025.



Notary Public



My Commission expires: 11/5/25

**EDUCATION, EMPLOYMENT HISTORY
AND PROFESSIONAL EXPERIENCE**

I graduated from the University of Central Arkansas with a Bachelor of Business Administration degree in Finance in 2006. In 2009, I received my Master of Business Administration degree from the University of Arkansas at Little Rock, with a concentration in Finance. While earning my MBA, I accepted a position as a Financial Analyst with the Arkansas Public Service Commission General Staff (“Staff”). Over the course of six years, I was promoted to Senior Financial Analyst and was primarily responsible for cost of capital, return on equity analysis, riders and rate mechanisms, and other rate-related issues.

In 2015, I accepted a Senior Regulatory Analyst position with CenterPoint Energy. I held various positions of increasing responsibility, including Manager of Rates and Regulatory. I supported regulatory policy and filings for Arkansas and Oklahoma.

In August 2020, I joined Black Hills as Manager of Regulatory and Finance. In this role, my team and I were responsible for overseeing and participating in the development of regulatory strategy, policy, tariffs, and regulatory filings in Kansas. In 2021, I was promoted to Director of Regulatory and Finance for Arkansas & Kansas. I assumed my current role as Director of Regulatory for Arkansas & Kansas in June 2023.