

**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)	Docket No. 25-BHCG-298-RTS
the Commission to Make Certain Changes)	
in its Rates for Natural Gas Service)	

CROSS-ANSWERING TESTIMONY OF KIRK HEGER

ON BEHALF OF

FREEDOM PIPELINE, LLC

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

2 A. My name is Kirk Heger. My business address is 1901 University Drive, Lawrence, Kansas. I
3 am appearing on behalf of Freedom Pipeline Company ("Freedom") in this matter.

4 **Q. DID YOU PROVIDE DIRECT TESTIMONY ON BEHALF OF FREEDOM IN THIS**
5 **DOCKET?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR CROSS-ANSWERING TESTIMONY?**

8 A. I wish to address a portion of the testimony of KCC Staff Witness Mr. Paul Owings related to
9 Daily Imbalance charges. Specifically, I take issue with the conclusions reached by Mr. Owings
10 regarding the need for the daily balancing rate proposal, as I believe his conclusions are not
11 supported by substantive evidence.

12 **Q. HOW DOES MR. OWINGS BEGIN HIS ANALYSIS SUPPORTING NEW**
13 **IMBALANCE CHARGES?**

14 A. As primary support for his conclusions, Mr. Owings notes that Black Hills' proposed daily
15 imbalance rates are the same as those imposed by one of its upstream suppliers, Northern Natural
16 Gas ("Northern"). He uses this comparison to support his conclusion that Black Hills' proposed
17 daily imbalance rates are reasonable or appropriate.

18 **Q. DID MR. OWNINGS EXPLAIN WHY HE BELIEVES THE UPSTREAM CHARGES**
19 **FOR IMBALANCES LEVIED BY ONE UPSTREAM SUPPLIER CONSTITUTES**
20 **APPROPRIATE JUSTIFICATION FOR THE EXPANSION OF SUCH A CHARGE TO**
21 **RETAIL CUSTOMERS OF BLACK HILLS THAT ARE NOT SERVED BY THAT**
22 **SUPPLIER?**

1 A. No. There was no analysis supporting the expansion of the Northern Natural imbalance charges
2 to all BHE customers, including those served by other interstate pipelines that do not levy a daily
3 imbalance charge.

4 **Q. WHAT DOES BLACK HILLS PROPOSE THE COSTS PER DECATHERM (“DTH”)?**

5 A. The proposed rates are \$.3441/Dth in the summer and \$.8742/Dth in the winter.

6 **Q. DID MR. OWINGS PROVIDE ANY ANALYSIS SUPPORTING THE**
7 **REASONABLENESS OF THESE RATES?**

8 A. No, beyond comparing them to similar imbalance charges imposed by Northern, there is not
9 any economic analysis supporting the reasonableness of these charges. Rates charged by Black
10 Hills should be based upon costs incurred by Black Hills, not those adopted by the Federal Energy
11 Regulatory Commission (FERC) for Northern Natural.

12 **Q. IS THE RATE PROPOSED BY BLACK HILLS AND SUPPORTED BY THE STAFF A**
13 **COST-BASED RATE?**

14 A. No. Neither Black Hills, nor Commission Staff have attempted to link the rate to costs actually
15 incurred by Black Hills. Therefore, the proposed rates are not cost-based.

16 **Q. DID MR. OWINGS ATTEMPT TO JUSTIFY WHY THE RATES CHARGED BY**
17 **NORTHERN WERE APPROPRIATE TO THEN APPLY TO RETAIL DAILY**
18 **IMBALANCES EXCEEDING 5%?**

19 A. No, he did not.

20 **Q. WHAT DOES MR. OWINGS CITE AS THE PURPOSE OF THE ADDITIONAL DAILY**
21 **IMBALANCE CHARGE?**

22 A. Mr. Owings states:

1 *As stated in Mr. Tobin's testimony, the daily imbalance charge is intended to incent*
2 *transportation customers to manage their scheduling imbalances and to ensure BHE retail*
3 *customers are recovering all gas balancing charges from upstream pipelines. It will also assist*
4 *BHE in managing imbalances for transportation deliveries made across its distribution system.*

5 **Q. DO YOU AGREE WITH THE IMPLICATION IN MR. OWINGS' TESTIMONY THAT**
6 **BLACK HILLS' TRANSPORTATION CUSTOMERS DO NOT CURRENTLY HAVE AN**
7 **INCENTIVE TO MANAGE THEIR IMBALANCES?**

8 A. No. I believe this statement demonstrates a lack of understanding of the challenges faced by
9 many of Black Hills transportation customers, particularly those like Freedom, which serve
10 irrigation load on the Black Hills system. I explained such challenges in my Direct Testimony.
11 Secondly, it is one thing to ensure retail customers are shielded from incurring imbalance charges
12 from interstate pipeline companies that are levied by Northern. However, it is quite another matter
13 to allow Black Hills to levy a charge across its transportation customer base related to the charge
14 imposed by one of its numerous interstate pipeline suppliers. Furthermore, neither Black Hills nor
15 the KCC staff has presented evidence of the costs purportedly incurred by Black Hills for daily
16 imbalances that exceed the 5% threshold. Therefore, the proposed charges are not cost-based.

17 **Q. DOES FREEDOM CLOSELY MONITOR DAILY NOMINATIONS AND**
18 **DELIVERIES?**

19 A. Yes. We maintain daily contact with our marketer and make our nominations based upon the
20 temperature and precipitation forecast, the current soil conditions, the weather forecast as well as
21 current crop conditions. We are very attentive to and diligent about all of these factors and the
22 impact they may have on irrigation demand on our system. Nevertheless, as described in my Direct

1 Testimony, circumstances arise in which Freedom, as is likely the case with other customers
2 serving irrigation load, can become out of balance despite its best diligent efforts.

3 **Q. IS THERE ANY EVIDENCE PROVIDED IN MR. OWINGS TESTIMONY**
4 **INDICATING HE ANALYZED IMBALANCES FOR IRRIGATION CUSTOMERS?**

5 A. I did not see any specific analysis, data or information that reviewed these issues from the
6 perspective of, and with specific attention to, the particular issues and problems facing irrigation
7 customers. The analysis is more of a “one-size-fits-all” analysis, and while it may be functional
8 for some types of customers, it very clearly marginalizes and unfairly punishes irrigation customers
9 like Freedom.

10 **Q. DO YOU AGREE WITH MR. OWINGS CONCLUSION ON PAGE 12 OF HIS**
11 **TESTIMONY THAT THE NEW IMBALANCE CHARGES DO NOT REPRESENT AN**
12 **ADDITIONAL COST SINCE THERE WILL BE NO COST INCURRED IF CUSTOMERS**
13 **STAY WITHIN THE 5% DAILY SCHEDULING TOLERANCE?**

14 A. No. As I have discussed, customers like Freedom, which are diligent, sophisticated and use
15 best practices, nevertheless present circumstances wherein, despite their best efforts, it is very
16 difficult to remain within the 5% daily tolerance in many circumstances. The conclusion that Black
17 Hills’ proposed charges will not be an additional cost to irrigation customers is simply inaccurate.
18 It reflects that Staff’s analysis did not meaningfully consider the challenges faced by irrigation
19 farmers in maintaining daily imbalances within a 5% daily tolerance. Irrigation customers, like
20 Freedom, are unable to even balance out currently, despite making a diligent effort to manage our
21 balances daily. In fact, and quite contrary to Staff’s conclusions, I believe this proposal will
22 unfairly penalize irrigation gas customers who are already operating under highly variable and
23 weather-dependent conditions.

1 **Q. HAVE YOU PRESENTED AN ALTERNATIVE PROPOSAL TO THE COMMISSION?**

2 A. Yes. The Commission should direct Black Hills to create an Operational Balancing Agreement
3 (OBA) option. An OBA would provide flexibility for responsible operators like Freedom by
4 recognizing the operational challenges faced by irrigation load and protecting such operators from
5 penalties when acting in good faith.

6 **Q. WHY IS AN OBA APPROPRIATE?**

7 A. An OBA provides a mechanism that aligns financial penalties with actual behavior. Responsible
8 operators acting in good faith could qualify for relief from imbalance penalties, while repeat
9 violators could lose eligibility. This preserves system integrity while promoting fairness. OBAs
10 are a well-established regulatory tool in other jurisdictions and would be a constructive addition
11 to Black Hills' framework.


12 **Q. DOES THAT CONCLUDE YOUR CROSS-ANSWERING TESTIMONY?**

13 A. Yes.

VERIFICATION

Colorado
STATE OF ~~KANSAS~~)
COUNTY OF ~~DODGE~~) SS

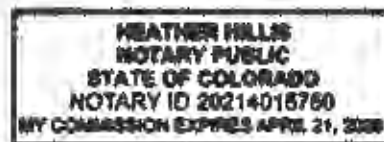
thurfano
The undersigned, Kirk Heger, upon oath first duly sworn, states that he is the Chairman of Freedom Pipeline, LLC, that he has reviewed the foregoing Testimony submitted on Behalf of Freedom Pipeline, LLC, that he is familiar with the contents thereof, and that the statements contained therein are true and correct to the best of his knowledge and belief.


Kirk Heger

Subscribed and sworn to before me this 23 day of May, 2025.


Notary Public

My appointment expires: 04/21/2029



CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was electronically filed with the Kansas Corporation Commission on May 23, 2025, and that one copy was delivered electronically to all parties on the service list as follows:

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