

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

**IN THE MATTER OF THE JOINT)
APPLICATION OF SOURCEGAS)
DISTRIBUTION LLC, SOURCEGAS LLC,)
SOURCEGAS HOLDINGS LLC, AND)
BLACK HILLS UTILITY HOLDINGS, INC.)
FOR ALL NECESSARY)
AUTHORIZATIONS AND APPROVALS)
FOR BLACK HILLS UTILITY HOLDINGS,)
INC. TO ACQUIRE SOURCEGAS)
HOLDINGS LLC)**

DOCKET NO. NG-0084

**DIRECT TESTIMONY OF
BETH ACKLAND,
PUBLIC ALLIANCE FOR COMMUNITY ENERGY (“ACE”)**

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1 **I. INTRODUCTION**

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

3 A. My name is Beth Ackland. My business address is 8377 Glynoaks Drive, Lincoln, NE
4 68516.

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

6 A. I am employed by the Nebraska Municipal Power Pool (“NMPP”) and assigned as the
7 Director of Retail Gas Services (“Director”) of the Public Alliance for Community
8 Energy (“ACE”).

9 **Q. PLEASE EXPLAIN THE RELATIONSHIP BETWEEN NMPP AND ACE.**

10 A. NMPP, ACE and two other energy-related organizations operate under the trade name
11 NMPP Energy, pursuant to a Joint Operating Committee Agreement. As such, staff of all
12 four organizations are employees of NMPP and are assigned to the participating
13 organizations. ACE is an independent legal entity and has its own Board of Directors,
14 bylaws and mission.

15 **Q. WHAT ARE YOUR RESPONSIBILITIES AS DIRECTOR OF ACE?**

16 A. As the Director of Retail Gas Services, I am responsible for managing all operations,
17 finances, goals and objectives of ACE. In accordance with the ACE Mission Statement,
18 this includes the development and execution of strategies to ensure competition in the
19 Nebraska Choice Gas Program and to provide the best possible pricing for end-use
20 natural gas customers. I am also responsible for effectively communicating with the ACE
21 Board of Directors which represents the 72 member municipalities and one public power
22 district who are participants of ACE as a not-for-profit, Nebraska interlocal agency

1 created for their mutual benefit. ACE was formed in 1998 under the Nebraska Interlocal
2 Cooperation Act, Neb, Rev. Stat. §13-801.

3 **Q. PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE AND**
4 **QUALIFICATIONS.**

5 A. I became Director of Retail Gas Services of ACE in 2013. Prior to that, I was Coordinator
6 of Retail Gas Services of ACE for seven years. As such, I was directly responsible for
7 coordinating and implementing all processes essential to ACE's participation as a natural
8 gas supplier in the Nebraska Choice Gas Program, including all activities related to the
9 annual open enrollment period. This included adherence to all program guidelines and
10 requirements, development of marketing strategies and sales initiatives for customer
11 recruitment, and ensuring the highest customer service standards possible. Before joining
12 ACE, I was co-owner of a print and marketing company for 20 years, and publisher of an
13 independent Nebraska newspaper for nine of those years, balancing business and
14 marketing interests with the good of the community.

15 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

16 A. I am testifying on behalf of ACE.

17 **Q. HAVE YOU PREVIOUSLY TESTIFIED OR FILED TESTIMONY BEFORE THE**
18 **COMMISSION OR COMMISSIONS IN OTHER JURISDICTIONS**

19 No.

20 **II. PURPOSE OF TESTIMONY**

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

22 A. The purpose of my testimony is not to oppose the acquisition of SourceGas by Black
23 Hills Utility Holdings (BHUH) but to explain the significance of the Nebraska Choice

1 Gas Program (NCGP) to ACE and to end-use natural gas customers in current SourceGas
2 territories, and to urge its continuation following this acquisition, if approved. Black Hills
3 appears to be a well-run utility and, in my opinion, would serve Nebraska natural gas
4 customers well.

5 **Q. ARE YOU PROVIDING ANY EXHIBITS TO YOUR TESTIMONY?**

6 A. No.

7 **III. BACKGROUND INFORMATION REGARDING ACE**

8 **Q. PLEASE PROVIDE A GENERAL DESCRIPTION OF ACE'S OPERATIONS.**

9 A. ACE was formed as a not-for-profit, Nebraska interlocal agency in 1998 to represent the
10 mutual interests of participant municipalities related to the acquisition, management,
11 distribution and sale of energy, and to attain maximum practicable economy to the
12 participants. ACE has participated as a natural gas supplier every year of the NCGP since
13 its inception in 1998, and continued to work with the Nebraska Public Service
14 Commission regarding NCGP Rules and Regulations when natural gas came under its
15 jurisdiction in 2003. ACE is also a Competitive Natural Gas Provider (CNGP) per Neb.
16 Rev. Stat. §66-1848.

17
18 As stated in its Mission Statement, ACE's core mission is to guarantee competition in the
19 NCGP in order to provide the best possible pricing for residential and commercial end-
20 use customers. ACE's rates during the selection period each year have often been the
21 lowest rates available to customers. More importantly, the intensely competitive
22 environment of the annual enrollment period is clear evidence of the price benefit
23 customers receive from the NCGP. Over the 18-year history of the NCGP, as many as

1 five suppliers have competed during a two-week period annually to supply natural gas to
2 approximately 80,000 residential, commercial and industrial customers in Nebraska.

3
4 ACE is also charged with the role of advocacy for natural gas customers and municipal
5 members, keeping members informed of issues which may affect their reliable and
6 economic delivery of natural gas, and providing a collective voice to express those utility
7 concerns as appropriate.

8
9 Founding members of ACE also expressed the desire to keep revenues derived from the
10 sale of natural gas at work in their communities. To date, ACE has returned more than
11 \$1.4 million to its municipal members and has funded a variety of projects including park
12 improvements, playground equipment, score boards, public transportation, recreational
13 trails, community infrastructure, holiday lighting and a variety of youth programs.

14 **IV. IMPACT OF TRANSACTION ON ACE**

15 **Q. ARE YOU GENERALLY FAMILIAR WITH THE TRANSACTION THAT IS**
16 **BEFORE THE COMMISSION IN THE APPLICATION?**

17 A. Yes.

18 **Q. PLEASE DESCRIBE THE OVERALL IMPACT YOU EXPECT BLACK HILLS**
19 **UTILITY HOLDINGS, INC'S ACQUISITION OF SOURCEGAS HOLDINGS TO**
20 **HAVE ON ACE'S OPERATIONS.**

21 If approved as requested, this transaction will change control of SourceGas Distribution
22 LLC and its parent company to BHUH which would then operate under Neb. Rev. Stat.
23 §66-1806 as a jurisdictional utility with a tariff and rate schedules governing the

1 Nebraska Choice Gas Program currently administrated by SourceGas Distribution LLC.
2 The Nebraska Choice Gas Program fulfills the core reason ACE was established 18 years
3 ago, and represents nearly 100% of operating revenues for ACE. Although the Nebraska
4 Choice Gas Program is not specifically addressed in this docket, change in ownership and
5 control of SourceGas Distribution LLC could trigger future discontinuation of the NCGP,
6 which would directly affect the existence of ACE, and eliminate the collective voice of
7 the municipalities ACE represents.

8 **Q. HAVE YOU READ ABOUT BLACK HILLS' PROPOSED COST OF SERVICE**
9 **GAS (COSG) PROGRAM, AND HAVE YOU FORMED AN OPINION?**

10 A. I have reviewed the filing Black Hills/Nebraska Gas Utility Company, LLC, d/b/a
11 Black Hills Energy ("Black Hills Nebraska"), has made with the Commission to
12 implement a new COSG Program (NG-0086) in its current Black Hills territories and
13 BKH Analyst Day materials which indicate Black Hills' future intent to expand the
14 program to current SourceGas territories. In my opinion, implementation of this program,
15 especially without the continued existence of the NCGP, could reinstate the bundling of
16 natural gas in effect before the Natural Gas Act of 2003 and cause harm to the
17 competitive market place by giving Black Hills exclusive control over the commodity.
18 Additionally, it has the potential of imposing substantially higher rates on ratepayers,
19 who may bear the cost of Black Hills' gas production costs above and beyond commodity
20 market rates, instead of actively pursuing rates from competing suppliers.

21 Not only does the proposed COSG program not give customers a choice in who
22 supplies their natural gas, it does not appear to provide options on how their gas is priced.
23 This is contrast to the many pricing options available to current NCGP customers who

1 may choose from a variety of fixed and market index rates in order to find an option that
2 fits their diverse budgeting needs and risk tolerance. The loss of the popular “Fixed
3 Monthly Bill” pricing option would be a hardship for many fixed-income customers who
4 count on a guaranteed monthly rate without fear of a true-up.

5 **Q. IN YOUR OPINION, IS THERE POTENTIAL FOR THE CURRENT**
6 **NEBRASKA CHOICE GAS PROGRAM TO EXIST IN CONJUNCTION WITH**
7 **BLACK HILLS’ PROPOSED COST OF SERVICE GAS PROGRAM?**

8 A. As stated in BHUH response to Request No. ACE-8 of this docket, BHUH will not
9 include a NCGP in conjunction with its proposed COSG program. In my opinion, the
10 potential for the NCGP to exist in conjunction with the Black Hills Nebraska COSG
11 program should be thoroughly scrutinized. Because Black Hills Nebraska is requesting
12 approval for 50% hedge-participation in its COSG filing (or a revised percentage that the
13 Commission may determine), there is potential for customers to seek competitive pricing
14 from multiple suppliers for the remaining 50% of their gas needs, thus preserving the
15 competitive marketplace and providing options to customers.

16 **IN YOUR OPINION, WILL THE TRANSACTION ADVERSELY IMPACT ACE**
17 **OR ITS CUSTOMERS?**

18 A. No, not as presented. There is no direct impact to ACE or its customers from this
19 transaction. However, there is a concern that this transaction is a stepping stone for
20 subsequent actions which could significantly impact the NCGP and cause harm to ACE,
21 its municipal members and its customers.

1 Q. WHAT IS YOUR RECOMMENDATION?

2 A. My recommendation is that the Commission approve this transaction contingent upon the
3 stipulation that the NCGP, as authorized in Neb. Rev. Stat. §66-1851¹ be continued
4 without change to the applicable tariff provisions and rate schedules in order that natural
5 gas consumers in the territories being acquired are assured of having the same
6 opportunity to choose a supplier as they do today.

7
8 Upon review of §66-1851, Customer Choice and other programs were recognized as an
9 unbundled service to ratepayers. As stated in the Act, the Commission shall not eliminate
10 or modify the terms of any Customer Choice or other unbundling program in existence as
11 of May 31, 2003, except under certain circumstances.

12 Q. DOES THAT CONCLUDE YOUR PREPARED DIRECT TESTIMONY?

13 A. Yes, thank you.

¹ Neb. Rev. Stat. §66-1851. Jurisdictional utility; customer choice or other programs; how treated.

(1) Notwithstanding any other provisions in the State Natural Gas Regulation Act, a jurisdictional utility may file with the commission rates and one or more rate schedules and other charges, and rules and regulations pertaining thereto, that enable the utility to provide service to ratepayers under customer choice and other programs offered by a utility to unbundle one or more elements of the service provided by the utility.

(2) The commission shall not eliminate or modify the terms of any customer choice or other unbundling programs in existence on May 31, 2003, or as thereafter modified by a filing made by the jurisdictional utility, except as permitted by the act after complaint or the commission's own motion and hearing. In any rate determination made under the act, the commission shall not penalize the utility for any action prudently taken or decision prudently made under its approved bundling program, by imputing revenue at maximum rates or otherwise.

(3) The commission may not modify the provisions of a program under this section except upon complaint or the commission's own motion, wherein the commission finds, after hearing, that one or more aspects of the program are unduly preferential, unjustly discriminatory, or not just and reasonable.

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AUTHORIZATIONS AND APPROVALS)
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HOLDINGS LLC)

DOCKET NO. NG-0084

STATE OF NEBRASKA)
COUNTY OF LANCASTER)

Affidavit Adopting
Direct Testimony

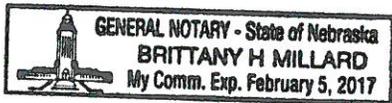
Beth Ackland being first duly sworn on oath, states that she is the Beth Ackland whose Direct Testimony in the above-captioned proceeding accompanies this Affidavit.

Beth Ackland further states that such Direct Testimony is a true and accurate statement of her answers to the questions contained therein, and that she does adopt those answers as her sworn Testimony in this proceeding.

Beth Ackland
Beth Ackland

On this 5th day of _____, November, 2015, before me, the undersigned, a Notary Public commissioned and qualified for in said County, personally came Beth Ackland, to me known to be the identical person whose names are affixed to the foregoing Testimony and acknowledged the execution thereof to be her voluntary act and deed.

WITNESS my hand and Notary Seal the day and year last above written.



Brittany H Millard
Notary Public
My Commission Expires: 2/5/17

CERTIFICATE OF SERVICE

On this 5th day of November, 2015, a true and correct copy of the foregoing Testimony was mailed by United States Mail, First Class, postage prepaid to:

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