

## SETTLEMENT AGREEMENT

This Settlement Agreement is made between Black Hills Nebraska Gas, LLC (formerly Black Hills/Nebraska Gas Utility Company, LLC, d/b/a Black Hills Energy) (“Black Hills Energy”) and the State of Nebraska (“State”), for the purpose of resolving ten separate complaints, each alleging violation of Nebraska’s One-Call Notification Act, Neb. Rev. Stat. §76-2301 et. Seq., (“One-Call Act”) and/or Chapter 1 of Title 155 of the Nebraska Administrative Code (“Title 155 Violations”) in the following particulars:

File #LSAE 18-031: That Black Hills Energy failed to properly locate its underground facilities in response to locate ticket #173520589 requested by John Henry's Plumbing for excavation at 1837 Harrison Avenue, Lincoln, Nebraska, resulting in damage to Black Hills' line on December 15, 2017.

File #LSAE 18-032: That Black Hills Energy failed to properly locate its underground facilities in response to locate ticket #173410629 requested by John Henry's Plumbing for excavation at 1025 N. 63<sup>rd</sup> Street, Lincoln, Nebraska, resulting in damage to Black Hills' line on December 15, 2017.

File #LSAE 20-109: That Black Hills Energy failed to properly locate its underground facilities in response to locate ticket #170800204 requested by John Henry's Plumbing for excavation at 2224 "Y" Street, Lincoln, Nebraska, resulting in damage to Black Hills' line on March 23, 2017.

File #LSAE 20-110: That Black Hills Energy failed to properly locate its underground facilities in response to a locate ticket requested by Fibernet for excavation at 615 N. Saunders Avenue, Lincoln, Nebraska, resulting in damage to Black Hills' line on February 26, 2018.

File #LSAE 17-198: That Black Hills Energy failed to properly locate its underground facilities in response to Ticket # 171700707 requested by TJ Cable for excavation at 60<sup>th</sup> and Vandervoort Streets, Lincoln, Nebraska, resulting in damage to Black Hills' line on June 22, 2017.

File #LSAE 17-199: That Black Hills Energy failed to properly locate its underground facilities in response to One-Call Ticket #171921390 requested by Aspen Builders for excavation at S. 65<sup>th</sup> Street and Bridle Lane, Lincoln, Nebraska, resulting in damage to Black Hills' line on July 19, 2017.

File #LSAE 17-200: That Black Hills Energy failed to properly locate its underground facilities in response to One-Call ticket #171920084 requested by Triple B Construction for excavation at S. 33<sup>rd</sup> Street and Grainger Pkwy, Lincoln, Nebraska, resulting in damage to Black Hills' line on July 20, 2017.

File # LSAE 17-202: That Black Hills Energy failed to properly locate its underground facilities in response to One-Call ticket #172001822 requested by EZ Connect for excavation at S. 27<sup>th</sup> Street and Grainger Parkway, Lincoln, Nebraska, resulting in damage to Black Hills' line on July 27, 2017.

File #LSAE 17-203: That Black Hills Energy failed to properly locate its underground facilities in response to One-Call ticket #172070028 requested by Ray Lipsey Construction for excavation at O Street and Anthony Lane, Lincoln, Nebraska, resulting in damage to Black Hills' line on August 7, 2017.

File #LSAE 17-204: That Black Hills Energy failed to properly locate its underground facilities in response to One-Call Ticket #171951060 requested by TJ Cable for excavation at S. 27<sup>th</sup> and Van Dorn Streets, Lincoln, Nebraska, resulting in damage to Black Hills' line on August 22, 2017.

Whereas, various parties (i.e., individual Excavators and/or Nebraska Fire Marshall) as set forth in more detail under separate complaints filed with or referred to the Attorney General of Nebraska each contend that Black Hills Energy or its natural gas line location service provider USIC failed to properly locate its natural gas distribution system facilities;

Whereas, Black Hills Energy disputes allegations of each of the complaints and SFM referrals that Black Hills Energy failed to properly locate its facilities or otherwise committed Title 155 Violations in a manner that requires assessment of a civil penalty;

Whereas, Black Hills Energy affirms that it has taken significant efforts and will continue to take significant efforts to mitigate further incidents and risk of damage to Black Hills Energy's natural gas distribution facilities which are related to One-Call tickets or Title 155 Violations;

Whereas, the Nebraska Attorney General, after review of the allegations has determined that statutory violations of the One-Call Act and administrative violations of Title 155 of the Nebraska Code have occurred under its interpretation of that Act;

Whereas, the parties agree that the Nebraska Attorney General has authority to file a civil action in the appropriate district court, seeking civil penalties for violations of the Nebraska One-Call Notification Act or Title 155 violations. Neb. Rev. Stat. § 76-2325 (Reissue 2018).

In lieu of a civil action before a court of competent jurisdiction, the parties stipulate and agree to settle and resolve these alleged violations as set forth in the various complaints and SFM referrals identified above under the following terms:

1. Black Hills agrees to pay the State of Nebraska a civil penalty in the amount of \$45,000.00 to resolve all of the separate complaints identified herein whether filed by and Excavator, SFM, or others. Payment shall be made to the State of Nebraska and delivered to the Nebraska Attorney General, Attn: Milissa Johnson-Wiles, 2115 State Capitol Building, Lincoln, NE 68509 by January 31, 2021. This civil penalty will be forwarded by the Attorney General to the State Treasurer for credit to the common school fund to be paid over to Lancaster County, Nebraska pursuant to Neb. Rev. Stat. § 76-2325 and Article VII, section 5 of the Nebraska Constitution.

2. Upon receipt of the payment outlined in Paragraph 1, above, the State of Nebraska will dismiss and close complaint #LSAE 18-031 (Complaint filed by John Henry's Plumbing and the State Fire Marshal's ("SFM") Office); #LSAE 18-032 (Complaint filed by John Henry's Plumbing and the SFM's Office); #LSAE 20-109 (Complaint filed SFM's Office); #LSAE 20-110 (Complaint filed by SFM's Office); #LSAE 17-198 (Complaint filed by SFM's Office); #LSAE 17-199 (Complaint filed by SFM's Office); #LSAE 17-200 (Complaint filed by SFM's Office); #LSAE 17-202 (Complaint filed by SFM's Office); #LSAE 17-203 (Complaint filed by SFM's Office); and #LSAE 17-204 (Complaint filed by SFM's Office) in full satisfaction of all civil penalties or other appropriate relief which may be sought by the State of Nebraska under the

Nebraska One-Call Notification Act or Title 155 of the Nebraska Administrative Code, due to the alleged violations.

3. The Settlement Agreement shall not be construed as an admission of wrongdoing on the part of Black Hills Energy, and it is expressly understood by both parties to the Settlement Agreement that this settlement is predicated on disputes as to liability, responsibility and also as to the scope of recoverable damages, if any.

4. The Settlement Agreement constitutes the entire agreement between Black Hills and the State of Nebraska related to this complaint. The terms of the Settlement Agreement are contractual and not mere recitals, and there are no agreements or understandings between the parties other than those expressed or referenced herein. This Settlement Agreement cannot be modified or changed without the consent of all parties.

5. Each of the signatories of the Settlement Agreement represents that he or she has the full power and authority to enter into the Settlement Agreement. The Settlement Agreement can be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any photocopy or other electronic reproduction of the original signatures hereto can and should be treated as original signatures.

6. The Settlement Agreement shall inure to the benefit of and bind assigns, successors-in-interest, or transferees of the Parties.

7. The provisions and language of the Settlement Agreement have been negotiated, and no provision of the Settlement Agreement shall be construed against any party by reason of such party having drafted such provision. The Settlement Agreement shall be effective upon the later date of its execution by all of the parties listed below.


Dated: January 4, 2021.

**STATE OF NEBRASKA,  
DOUGLAS PETERSON,  
Attorney General**

**BLACK HILLS NEBRASKA  
GAS, LLC  
(FORMERLY BLACK HILLS/  
NEBRASKA GAS UTILITY  
COMPANY, LLC)**

**D/B/A BLACK HILLS ENERGY**

BY:   
MILISSA JOHNSON-WILES  
Assistant Attorney General

BY:   
KEVIN JAROSZ  
Vice President, Nebraska Operations  
Black Hills Nebraska Gas, LLC  
d/b/a Black Hills Energy