

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 a complaint (LSAE18-163) alleging violations of Nebraska’s One-Call Notification Act, Neb. Rev. Stat. §76-2301 et. Seq., (“One-Call Act”) in the following particulars:

Specific Excavator Allegation: That Black Hills failed to locate its underground facilities in response to the following locate requests by Pruss Excavating (“Pruss”) for excavation near South 204th Street and Capehart Road, Gretna, Sarpy County, Nebraska: Nebraska One-Call Ticket #173130820 (dated November 9, 2017), #173311209 (dated November 27, 2017), #173411128 (dated December 7, 2017), #173521545 (dated December 18, 2017), #180791428 (dated March 20, 2018), #180921796 (dated April 2, 2018) and #181030955 (dated April 13, 2018).

Whereas, Black Hills Energy contends that Black Hills Energy and representatives of Pruss Excavating had weekly ongoing oral agreement to modify the various location requests by Pruss; and Pruss Excavating disputes this contention;

Whereas, Black Hills Energy disputes allegations of Pruss Excavating that Black Hills Energy failed to properly locate its facilities;

Whereas, Black Hills Energy asserts that no damage actually occurred to its facilities under six of the seven One-Call Act tickets;

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;

Whereas, the Nebraska Attorney General, after review of the allegations has determined that violations of the One-Call Act 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. Neb. Rev. Stat. § 76-2325 (Reissue 2018).

In lieu of a civil action, the parties stipulate and agree to settle and resolve these alleged violations under the following terms:

1. Black Hills agrees to pay the State of Nebraska a civil penalty in the amount of \$10,000.00. 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 February 28, 2020. 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 Sarpy 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 18-163, 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, 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 31, 2020.

**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
Director of Operations
Black Hills/Nebraska Gas Utility
Company, LLC d/b/a Black Hills
Energy