

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC, d/b/a BLACK HILLS ENERGY</p>	<p>DOCKET NO. WRU-08-49-225</p>
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ORDER GRANTING WAIVER REQUEST

(Issued December 19, 2008)

On December 8, 2008 Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills Energy), filed with the Utilities Board (Board) a request for waiver of the monthly billing requirements in 199 IAC 19.3(7) for a large customer. Black Hills Energy requests a waiver to bill VeraSun Hartley, L.L.C. (VeraSun Hartley), and VeraSun Dyersville, L.L.C. (VeraSun Dyersville), twice a month. Black Hills Energy states that the more frequent billing is necessary because of the petition for bankruptcy filed by the two customers and their parent company, VeraSun Corporation (VeraSun). In addition, Black Hills Energy states that VeraSun and the two customers agreed to the more frequent billing as part of the resolution to objections in the bankruptcy proceeding. The waiver request has been identified as Docket No. WRU-08-49-225.

Black Hills Energy states that the average monthly bill for VeraSun Hartley has been \$55,000 and the average monthly bill for VeraSun Dyersville has been \$45,000, and without more frequent billing, Black Hills Energy would bear a greater and unsecured financial risk. Black Hills Energy states that the waiver will not prejudice the substantial legal rights of either customer since the twice-a-month billing has been agreed to as part

of resolving the objections in the bankruptcy proceeding. Black Hills Energy requests that the waiver be granted for two years with the option, if the customer's and VeraSun's financial situation has not improved, to renew the request or seek other relief. Black Hills Energy states that the Consumer Advocate Division of the Department of Justice has no objection to the waiver request.

Subrule 199 IAC 1.3 establishes four criteria that must be met by clear and convincing evidence for the Board to grant a waiver. The criteria are: (1) the application of the rule would pose an undue hardship on the person for whom the waiver is requested, (2) the waiver would not prejudice the substantial legal rights of any person, (3) the provisions of the rule are not specifically mandated by statute or another provision of law, and (4) substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule.

The Board finds the four criteria in 199 IAC 1.3 have been met and the Board will grant the waiver. Black Hills Energy has demonstrated that it could experience undue financial hardship if it is required to bill the two customers under normal monthly billing procedures. In addition, the two customers have agreed to twice-a-month billing as part of the bankruptcy proceeding. Monthly billing is not mandated by statute and substantially equal protection of public health, safety, and welfare will be afforded by means other than prescribed in the rule.

Allowing more frequent billing will allow service to continue to the two customers while at the same time providing some financial protection to Black Hills Energy's other customers in case of a default. The Board will grant the waiver for a two-year period with

the understanding that Black Hills Energy may seek another waiver or other relief at the end of the two-year period or at any other time.

IT IS THEREFORE ORDERED:

The waiver request filed by Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy, on December 8, 2008, is granted, for a period of two years from the date of this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 19th day of December, 2008.