

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

<b>IN THE MATTER OF THE</b>	)	<b>Application No. NG-102/PI-225</b>
<b>COMMISSION, ON ITS OWN MOTION,</b>	)	
<b>SEEKING TO REVIEW POLICIES AND</b>	)	
<b>PRACTICES RELATING TO THE</b>	)	<b>PROGRESSION ORDER NO. 9</b>
<b>ADMINISTRATION OF CUSTOMER</b>	)	
<b>CHOICE PROGRAMS FOR NATURAL</b>	)	
<b>GAS SERVICE OFFERED WITHIN</b>	)	
<b>THE STATE OF NEBRASKA</b>	)	

**2026 COMMENTS OF**  
**BLACK HILLS NEBRASKA GAS, LLC**  
**D/B/A BLACK HILLS ENERGY**  
**(Choice Gas Program Administrator)**

## I. INTRODUCTION

On August 6, 2019, the Nebraska Public Service Commission (“Commission”), on its own motion, issued an order (“2019 Choice Gas Order”) opening an investigation in the above-captioned docket for the purpose of gathering information regarding, and reviewing the policies and practices related to, Black Hills Nebraska Gas, LLC’s (“BH Nebraska Gas”) administration of customer choice programs for natural gas service offered within the State of Nebraska (“Choice Gas Program”). The Commission initiated its investigation in this proceeding pursuant to *Neb. Rev. Stats. §§ 66-1848, 66-1849, and 66-1855*.

Pursuant to the Commission’s 2019 Choice Gas Order, the Commission solicited written comments on a range of topics primarily related to residential customers within the Choice Gas Program administered by BH Nebraska Gas. Thereafter, the Commission held a workshop to discuss those topics. Following that workshop, in Progression Order No. 1, entered in this proceeding on October 29, 2019, the Commission set forth a series of recommendations and expectations for the Choice Gas Program. The Commission stated that the proceedings would remain open for the purpose of continuing to gather information regarding the Choice Gas Program and reviewing its administration.

The Commission issued subsequent Progression Orders annually since 2019 and has held an open meeting each year to discuss issues and ideas intended to improve the Choice Gas Program with representatives of the Choice Gas Administrator, Suppliers, the Public Advocate, and the Commission.

On May 12, 2026, the Commission issued its Progression Order #9 (“2026 Choice Gas Order”). Pursuant to the 2026 Choice Gas Order, the Commission did not solicit specific written

comments; however, parties wishing to submit comments are permitted to do so at least one week prior to the workshop to be held June 30, 2026. The Commission's Progression Order #9 states that the Commission will accept written comments and supporting documentation regarding the 2026 Choice Gas Program from all interested parties submitted on or before June 23, 2026, at 5:00 p.m. Central Time.

Pursuant to the Commission's 2026 Choice Gas Order, BH Nebraska Gas hereby submits comments in response to the Commission's Choice Gas investigation in this proceeding.

## **II. SCOPE OF COMMENTS**

The comments provided herein focus on the existing Choice Gas Program offered by BH Nebraska Gas within the State of Nebraska. While BH Nebraska Gas is not proposing any significant structural or territory changes at this time, the Company is evaluating certain program elements as discussed below and may propose tariff changes for Commission review in a future filing. In this context, BH Nebraska Gas will consider developments in the Choice Gas Program proceedings in Wyoming.

The Wyoming PSC issued an order dated May 28, 2026 related to the Choice Gas Program status in Wyoming.<sup>1</sup> The Wyoming PSC Commission ordered that Black Hills Wyoming Gas shall file an application, on or before August 21, 2026, demonstrating the Choice Gas Program in Wyoming, as currently constituted, continues to serve the public interest, produces just and reasonable rates, and remains otherwise compliant with Wyoming law. The Wyoming PSC further ordered that the BH Wyoming Gas application related to the Choice Gas Program may contain

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<sup>1</sup> *In the Matter of Requiring Black Hills Wyoming Gas d/b/a Black Hills Energy to File an Application For the Commission to Consider Whether The Choice Gas Program Continues To Serve The Public Interest, Results In Just and Reasonable Rates, and Is Otherwise IN Harmony With Wyoming Law*, WY PSC Docket No. 90000-192-X)-26 (Record No. 18120).

proposed Choice Gas Program revisions, but not including expansion of the geographic territory to which the Program currently applies. BH Wyoming Gas is in the process of developing its response to the Commission's May 28, 2026 Choice Gas Program Order.

BH Nebraska Gas will provide the Nebraska Commission with periodic status updates regarding the progress of the BH Wyoming Gas Choice Gas proceedings at its quarterly Commission Application NG-101.1 meetings or as requested. BH Nebraska Gas fully understands that any tariff changes proposed by the Company to the BH Nebraska Gas Choice Gas Program would be subject to prior discussion, review, and approval by the Nebraska Commission.

### **III. CHOICE GAS PROGRAM COMMENTS**

BH Nebraska Gas provides comments related to (a) the BH Nebraska Gas **2025-2026 Choice Gas Program Year** recently completed, (b) the enrollment and ongoing **2026-2027 Choice Gas Program Year**, (c) general discussion related to future administration of Choice Gas Programs in Nebraska.

The comments of BH Nebraska Gas provided in this proceeding are primarily directed to the Nebraska Residential and Commercial Choice Gas Program offered by BH Nebraska Gas in Rate Area Five.

The Choice Gas Program issues commented on by BH Nebraska Gas are as follows:

#### **(a) 2025-2026 Choice Gas Program Year – Issues and Resolutions Report**

BH Nebraska Gas reports that the 2025-2026 Choice Gas Program year recently completed proceeded without significant issues. The Black Hills Energy call center received approximately the same number or fewer customer calls as in prior Choice Gas Program periods. A minimal number of customer questions/concerns were resolved immediately upon BH Nebraska Gas'

awareness of an issue. The Choice Gas Program Suppliers were cooperative and responsive in resolving any customer issues.

**(b) 2026-2027 Selection Period and Current Choice Gas Program Year**

BH Nebraska Gas reports that the enrollment period for the 2026-2027 Choice Gas Program year proceeded without significant issues. The Black Hills Energy call center received approximately the same number or fewer customer calls as last year's Choice Gas Program enrollment periods. Overall, the customer enrollment process only experienced a minimal number of customer questions/concerns, which were resolved immediately upon BH Nebraska Gas' awareness of an issue. The Choice Gas Suppliers have also been cooperative and responsive in resolving any customer issues. Customers were directed to the [www.Choicegas.com](http://www.Choicegas.com) website where enrollment and program information was available. BH Nebraska Gas continued the use of updated Choice Gas Program emails, and enrollment materials to ensure that eligible customers received adequate notice of the selection period.

**(c) Future Administration of Energy Options and Choice Gas Programs in Nebraska**

Black Hills Energy has no current plans to expand or to terminate the Choice Gas Program in Nebraska but reserves the right to reassess in future years as technology, customer demand, program effectiveness, corporate realignment, or administration and operations shift. In addition, the Company is evaluating whether certain program elements remain aligned with the program's original intent, the roles of suppliers and the utility, and customer expectations regarding pricing and service. The Company provides the following comments regarding key program issues.

**(1) Fixed Monthly Bill (FMB) Price Option**

BH Nebraska Gas has evaluated the Fixed Monthly Bill ("FMB") price option due to issues raised in recent proceedings, including NG-124. The Choice Gas Program was designed to

promote transparent, commodity-based competition, with a clear separation between competitive supplier pricing and regulated utility delivery service. The FMB price option departs from this by combining the competitive commodity, regulated delivery and other regulated cost components into a single bundled price offered by the Choice Gas Program Supplier.

BH Nebraska Gas has observed several concerns with this structure. Although presented as “fixed,” FMB pricing incorporates regulated utility cost components that are subject to change and Commission approval, creating risk for suppliers as these costs cannot be predicted or managed at the time pricing decisions are made. The FMB pricing is calculated based on the Supplier’s estimation of usage for the customer which is derived from the customer’s historical usage provided to Suppliers by the utility. This pricing model inherently can carry both risk and financial benefit for Suppliers and customers depending on the customer’s actual usage pattern throughout the term.

The FMB price option is structured and marketed as a fixed monthly-price offering over a specified term. Where pricing is represented as fixed, customers reasonably expect the monthly price to remain unchanged over the term. However, in some cases, “fixed” pricing may be adjusted for changes in underlying costs, including regulated utility rates or Federal Energy Regulatory Commission (“FERC”) approved interstate pipeline capacity rates, affecting the overall billed amount. This bundled pricing structure also obscures underlying cost components and makes it difficult for customers to evaluate perceived benefits and to compare the FMB with other supplier price option offerings.

BH Nebraska Gas continues to perform billing, collections, and customer service functions and assumes related risks such as bad debt. In many cases, the utility is the primary point of contact for billing questions, including those related to supplier pricing. However, the utility does not have

full visibility into supplier pricing methodologies and is therefore limited in its ability to fully explain those charges. This creates operational and regulatory challenges, particularly when customer expectations do not match billing outcomes. Risk for the utility also exists when Suppliers attempt to address customer requests for explanations into the regulated rate components of the FMB monthly amount billed.

While suppliers may view the FMB as providing a price option that offers customers price stability and simplified billing, BH Nebraska Gas's experience and analysis indicates that the structure introduces complexities and risks that are not fully transparent to customers and not directly controllable by suppliers. Simply stated, although it may be appropriate for a Supplier to offer a fixed price per therm gas supply commodity price option to Choice Gas Customers, in the view of BH Nebraska Gas, the Supplier should not be offering a Fixed Monthly Bill that includes pricing components that the Supplier can't control and should not represent to customers as fixed (i.e., BH Nebraska Gas distribution and Tallgrass Interstate Gas Transmission ("TIGT") interstate pipeline capacity charges) when those charges may not be fixed throughout the Choice Gas Program year.

For these reasons, BH Nebraska Gas believes that continued use of the FMB structure warrants careful Commission review to ensure alignment with program design and just and reasonable rates. BH Nebraska Gas opposes the continued use of FMB by Suppliers and will most likely take action to terminate that pricing option as part of the Choice Gas Program.

## **(2) Timing and Notice of Rate Proceedings**

BH Nebraska Gas does not support a requirement to provide advance notice of rate filings to Choice Gas suppliers. Rate case filings contain confidential and proprietary information, and providing advance notice raises concerns regarding confidentiality and competitive fairness.

As a publicly traded company, the Company is subject to federal securities laws of the Security and Exchange Commission (SEC) governing the disclosure of material nonpublic information. Information regarding the timing or anticipated impact of a rate filing may be considered material, and under SEC Regulation FD<sup>2</sup>, selective disclosure of such information is restricted unless it is simultaneously made available to the public. Even where confidentiality protections are in place, providing advance notice to external parties presents compliance and operational risks, as the Company cannot ensure that the information would remain nonpublic or not be used in a manner that would trigger broader disclosure obligations.

BH Nebraska Gas further notes that the timing of rate proceedings typically occurs after the Choice Gas annual selection period. The outcome of a rate proceeding is uncertain at the time of filing and remains subject to review, potential settlement, and final Commission approval. Even if confidential advance notice were provided, suppliers would not have sufficient information to meaningfully adjust pricing, as the timing, magnitude, and effective date of any rate change would probably not be known until near the actual filing date. Thus, suppliers must establish pricing without certainty regarding future regulated cost components related to BH Nebraska Gas.

Accordingly, BH Nebraska Gas believes that a requirement to provide advance notice of a rate proceeding would not effectively address supplier concerns associated with pricing risk and instead may introduce additional regulatory, confidentiality, and competitive complications. Similarly, this advance notice may cause Suppliers to adjust pricing models that would impact customer pricing without sufficient support for doing so nor a remedy to customers in the event of overcompensation. Eliminating the FMB price option alleviates this concern and any associated complications for the utility and its customers.

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<sup>2</sup> 17 CFR Part 243 (<https://www.ecfr.gov/current/title-17/chapter-II/part-243>)

As noted above, it is not just the transportation / distribution charges of BH Nebraska Gas that are beyond the Suppliers ability to predict or control. The TIGT interstate pipeline capacity charges approved by the FERC are subject to change significantly periodically. Those rate increases do not always occur prior to the enrollment period when the FMB is offered by the Choice Gas Supplier. Thus, changes in the FMB offered by Choice Gas Program Suppliers related to TIGT rate increases has a direct impact on customer confusion and the utility customer call center along with the increased potential for Customer complaints to the Commission related to a resulting change in the FMB by a Choice Gas Program Supplier due to the TIGT rate change. This pricing issue is further complicated by the interim rate process and refund.

### **(3) Pricing Transparency and Default Pricing**

The effectiveness of the Choice Gas Program depends on customers' ability to understand pricing, compare options, and make informed decisions. Certain program elements may limit visibility into pricing and reduce the ability to make meaningful comparisons.

While some supplier data may remain confidential, customers need sufficient visibility into pricing at the time of selection. To support a fair and transparent competitive market, BH Nebraska Gas believes the Commission may wish to consider whether additional requirements are appropriate regarding timing and presentation of supplier pricing, including consistent disclosure practices, comparability of pricing formats, and timely customer communications related to price changes.

For example, at the start of the Choice Gas Program in circa 1996, Choice Gas Program Suppliers were obligated to provide their portfolio of gas supply prices 10 days prior to the Supplier enrollment process. Black Hills Nebraska Gas is interested in discussing whether such a pricing requirement, which would include posting a "Default Customer" rate prior to the enrollment

process would create more pricing comparison and price transparency for the Choice Gas Program.<sup>3</sup> BH Nebraska Gas believes that more customer price transparency and effective price comparison available to customers will enhance the Choice Gas Program.

#### **(4) Incentives and Competitive Practices**

BH Nebraska Gas believes the Commission should evaluate the role of supplier incentives within the Choice Gas Program. While incentives may provide short-term benefits or assist in customer acquisition and retention, certain structures may reduce clarity in pricing, limit comparability, or create unintended cost impacts, including shifting costs to customers who do not receive corresponding benefits even if that customer defaults to a supplier who offers incentives. Defaulting customers do not receive the same incentive benefits or competitive pricing as actively participating customers, which could reasonably be interpreted as discriminatory since defaulting to the same supplier and price option is an acceptable selection method.

BH Nebraska Gas will recommend that the Commission prohibit a Supplier's ability to offer certain types of incentives (i.e., free televisions, free gas, gift cards, etc.) in order to provide for imitations or safeguards related to incentives, if any, that may be appropriate to maintain a fair and transparent competitive market. BH Nebraska Gas would like to discuss this topic more and to hear from Choice Gas Program Suppliers as to why those incentives are appropriate and whether concerns may arise that they could be interpreted to violate Nebraska laws, regulations or the Code of Conduct (i.e., undue preferential treatment for similarly situated customers).

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<sup>3</sup> See, e.g., *IN THE MATTER OF THE APPLICATION BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING ) OF KN ENERGY, INC., FOR AUTHORITY TO INITIATE A CHOICE GAS SERVICE PROGRAM WHEREBY CUSTOMERS CAN CHOOSE AMONG COMPETING GAS SUPPLIERS IN THE COMPETITIVE MARKETPLACE AND TO MAKE CERTAIN RELATED CHANGES TO ITS TARIFFS*, WY PSC Docket No. 30004-GT-95-37 which was consolidated *IN THE MATTER OF THE APPLICATION OF KN ENERGY, INC., TO CHANGE ITS TARIFF RELATING TO THE SUPPLIER SELECTION PROCESS UNDER ITS CHOICE GAS SERVICE PROGRAM TO BE EFFECTIVE ON LESS THAN 30 DAYS NOTICE*, Wyoming PSC Docket No. 30004-GT-97-44.

**(5) Tariff Changes**

BH Nebraska Gas is evaluating whether to propose tariff modifications including but not limited to items 1 through 4 above, to improve program alignment, reduce complexity, and enhance transparency. Any proposed changes will be brought forward for Commission review and approval in future proceedings.

**IV. CONCLUSION**

**WHEREFORE**, for the reasons stated above, BH Nebraska Gas respectfully submits the comments provided herein.

Respectfully,

Dated: June 24, 2026

By: /s/ Douglas J. Law

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