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VIA EMAIL

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**RE: CenterPoint Energy Services Inc. Comments in NG-102/PI-225, Order
Opening Docket Requesting Written Comments and Notice of Assessment
regarding Choice Programs**

Ms. Ackerman and Ms. Dietrich:

Pursuant to the Nebraska Public Service Commission's ("Commission") August 6, 2019, *Order Opening Docket Requesting Written Comments and Notice of Assessment* for the purpose of gathering information regarding, and reviewing the administration of, customer choice programs for natural gas service offered within the State of Nebraska ("Choice Programs") in advance of the workshop to be held September 25, 2019, the Comments of CenterPoint Energy Services, Inc ("CES") are enclosed.

Please let me know if you have any questions. We look forward to the opportunity to participate in the upcoming workshop.

Regards,
Debora K. Churches
Senior Counsel

Enclosure

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own)	Application No. NG-102/PI-225
motion, seeking to review policies and)	
practices relating to the administration of)	ORDER OPENING DOCKET
customer choice programs for natural gas)	REQUESTING WRITTEN
service offered within the State of Nebraska)	COMMENTS AND NOTICE OF
)	ASSESSMENT
)	
)	Entered August 6, 2019

COMMENTS OF CENTERPOINT ENERGY SERVICES, INC.

COMES NOW, CenterPoint Energy Services Inc. (“CES”) and submits its initial comments in response to the Nebraska Public Service Commission’s (“Commission”) August 6, 2019, *Order Opening Docket Requesting Written Comments and Notice of Assessment* for the purpose of gathering information regarding, and reviewing the administration of, customer choice programs for natural gas service offered within the State of Nebraska (“Choice Programs”) in advance of the workshop to be held September 25, 2019. CES respectfully submits the following comments related to the Choice Programs generally, including comments on: (1) Customer Education; (2) Code of Conduct; (3) Annual Reports; (4) Marketing Period; (5) Delegation Agreements; (6) Customer Selection; and (7) Other Information.

I. Customer Education

CES has been a natural gas marketer in the state of Nebraska since 2012. Since that time, CES has seen the Choice Programs only increase in acceptance and consumer value in the state. The increase in participation in the Choice Programs in Nebraska supports the continuation of these programs and renewed focus on customer service. CES is committed to the highest level of customer service and appreciates the Commission’s interest in re-evaluating the administration of the Choice Programs and looks forward to participating in this process.

A. How can utilities, CNGPs, and the Commission better educate customers about the Choice program? What should the goal of customer education be?

Recommendation: Customer communication should be permitted year-round to allow suppliers the opportunity to educate customers about Choice Programs generally and to prevent the perceived “blasting” of information to customers during the selection window. Customer education should focus on transparency and giving customers timely access to information to allow customers to make informed choices about their natural gas supply.

CES believes that customer education is essential to the success of Choice Programs in Nebraska. And that starts with setting goals for customer education that mutually benefit all parties—goals that ensure transparency of natural gas supply Choice Programs details and empower customers to make informed decisions. Outside of the marketing window, the only customer education on Choice Programs is delivered through a uniform communication on behalf of all suppliers that is included a bill stuffer by the utility. For customers who want more information about Choice Programs, specific supplier information, or to see the list of certificated providers, they must search and navigate through many webpages in hopes of finding the materials.

Not only is there little educational material sent to customers, there is also a very short window of opportunity for suppliers to educate customers about the Choice Programs generally and market the suppliers’ specific offers. And because suppliers communicate as much as they can during that period, that small window is quickly flooded with both educational and branded marketing materials resulting in perceived “blasting” to customers. This unintended consequence causes information to be lost in the masses and makes it more difficult for customers to make an informed decision about whether they want to participate in the Choice Programs or select a supplier.

B. What should the role of each entity be in administering and setting out information regarding the Choice Programs?

Recommendation: The Commission should take back more of its statutory authority to oversee and administer Choice Programs including ensuring adherence with the code of conduct and marketing to and communicating with customers to prevent any unfair advantage or disadvantage in the utility's screening process.

The Commission has the statutory authority to oversee and administer Choice Programs in the state,¹ however, much of that authority has been delegated to the utility to establish processes including developing and ensuring compliance with a code of conduct. CES believes the responsibility for the oversight and administration of the Choice Programs resides more appropriately with the Commission. Delegating this much quasi-PUC responsibility to the utility empowers the utility to essentially dictate the way that its affiliate's competitors communicate with their current and potential customers. It is counterintuitive for a utility, particularly one that also has an affiliate competitive natural gas marketer with the majority of the market share, to take on a role empowering it to govern the programs of its competitors.

Moreover, the utility has empowered itself with the authority to conduct pre-screenings of competitors' marketing materials, which not only raises conflict of interest concerns but also bandwidth and timeline concerns. Suppliers are at the mercy of the utility's statutory interpretation in exercising its review and oversight of the suppliers' materials—a practice that has introduced subjectivity and inconsistency into the evaluation of marketing materials and has created an arbitrary, moving target of acceptable submissions (*i.e.*, word choice is highly critiqued, for example to use “save up to” instead of “save on”). The utility has taken the role of providing administrative and mechanical oversight of the Choice Programs and actually goes so far as to

¹ See generally Nebraska Revised § 66-1855.

make judgment calls on the suppliers' compliance with regulation according to the utility's statutory interpretation.

More than communicating with customers about the Nebraska Choice Programs, CES also has a practice of communicating with its customers in times of natural disasters and participating in supporting local community initiatives. CES has been hesitant to participate in these efforts, as it does in other jurisdictions, because it is unclear what the perception of the utility and Commission would be.

The most responsibility that the utility should bear with respect to Choice Programs' governance is to administratively and mechanically oversee the program, stopping short of what goes into interpreting the spirit and the purpose of the statutory framework. There are a number of administrative, policy, and practical considerations that will likely be discussed in the context of the workshop on how this transition can be achieved, but CES recommends the Commission take back oversight of the Choice Programs. CES understands that program costs come along with program administration, and as such CES would also not be opposed to discussing funding mechanisms for the Commission to absorb this responsibility (*i.e.*, similar to other regulatory mechanisms on how FERC and others pay for its staff through a per unit transport rate.)

Entity	Current Role	Recommended Role	Reason for Change
Commission	<ul style="list-style-type: none"> ▪ Delegated administration of the Choice Programs to the utility 	<ul style="list-style-type: none"> ▪ Take over the administrative role of the Choice Program ▪ To the extent it is needed, review the suppliers' materials to be sent to customers ▪ Manage consumer complaints 	Remove the conflict of interest and moving targets of the utility review of competitor materials
Utility	<ul style="list-style-type: none"> ▪ Has a marketing affiliate ▪ Defines and enforces the Code of Conduct ▪ Reviews and approves/denies other suppliers' materials ▪ Manages consumer complaints 	<ul style="list-style-type: none"> ▪ Have a marketing affiliate ▪ Pass onto Commission complaints reported to the utility for the Commission to oversee the review 	Remove the conflict of interest and moving target of the utility review of competitor materials
Marketer	<ul style="list-style-type: none"> ▪ Limited to communicating and soliciting customers in the allowed window 	<ul style="list-style-type: none"> ▪ Own the relationship with customers including educating and marketing to customers year-round 	Encourage more transparent communications over a longer period of time that will further educate customers.

II. Code of Conduct

A. **Is the current Code of Conduct set forth in the utility's tariff and in the Commission regulations sufficient to provide a fairly administered program that benefits both customers and suppliers?**

Recommendation: move the Code of Conduct into the Regulations and have the Commission oversee the Choice Programs.

As stated above, the utility should not be interpreting the Code of Conduct or reviewing competitors' marketing materials. A better approach would be to have the Code of Conduct in the Regulations definitely providing guidelines on how the tariff should work creating transparency and reducing subjective interpretation.

B. Should any modifications be made to the tariff and/or regulations? If so, please provide proposed language.

Recommendation: move the Code of Conduct into the Regulations and have the Commission oversee the Choice Programs.

Because of the inherent conflict of interest, a utility with an affiliate natural gas supplier should not be charged with interpreting the Code of Conduct or determining the appropriateness of its competitors' marketing materials. A better approach would be to have the Code of Conduct in the Regulations describing how the tariff should work that will provide increased transparency and decrease the moving target and subjective interpretation by a competitor.

For various reasons, including customer education, Choice Programs perception, and ease of transparently communicating with and educating current and potential customers, suppliers should be able to communicate with customers year-round. Suppliers should use the opportunity of the workshop to work toward structuring the program in regulation.

III. Annual Reports

Is the information currently provided in annual reports sufficient to provide a fairly administered program that benefits both customers and suppliers? Should the reports include more information, less information, or more specific information, details, and specifics? Please provide specific suggestions and sample language or edits.

CES support the existing annual report structure where suppliers are required to provide the total revenue and the total meter count.

IV. Marketing Period

Is the current length and timing of the residential marketing period appropriate? Would customers benefit from having a longer or shorter marketing period? If so, when should the marketing period begin and end?

Recommendation: The current marketing period should be changed to allow year-round communications, and customers should be allowed to enroll in the program at any time.

CES believes that marketing should be allowed year-round. Under the current format, there are unintended consequences adversely impacting customers. For example, customers who recently moved into the state are given a mere two (2) weeks to select a supplier. Customers who move into a new location, have a new meter install, must make a selection for a supplier in 2 weeks. On the other hands, customers who move to locations where the former resident participated in the Choice Programs are stuck with that supplier selection essentially eradicating any choice for those customers for the remainder of the term.

Suppliers market their programs using the eligible customer lists provided by the utility by February 1, and then immediately begin scrambling to develop their communications to customers. Expanding the communication window with customers to a year-round program makes the Choice Programs process easier for everyone—especially the customers. There will no longer be the mass mailings required to be sent to customers over a short timeframe. Customers are also having to select their supplier just having come off of a peak usage period. A year-round communication program would create more flexibility for the utility and avoid the need for the utility to finalize the eligible customer list made available so quickly. Additionally, allowing the customers to make their selection at any time of the year would benefit customers by allowing them to make their choice, and then know that they are not going to be subjected to further marketing. Other states have programs (like CMS and DTE) that have a program year and also include a customer selection period. Another critical part of a successful Choice Program would be to ensure that there are

timely updates to the eligible customer list that is regularly updated and available to suppliers letting them know exactly who they are not permitted to contact, and potentially be accessible by customers so they refresh their recollection of the election of a supplier in the upcoming program year.

The existing two-week marketing period is far too short to allow a customer to understand the program, evaluate all offers, and make a thoughtful selection of a natural gas supplier. From the supplier side, web traffic and call volumes are two-to-three times what the normal call volume is with customers calling daily to talk about the rates and perusing the website to understand the offers. Advanced analytics inform CES that the web search keyword costs are inflated during this time.

With respect to any additional costs of the Choice Programs should the Commission take over its administration, there is the potential to implement a cost recovery mechanism for that support.

V. Delegation Agreements

A. How do Delegation Agreements benefit customers?

Recommendation: CES believes that the delegation agreement process should be eliminated from the Choice Programs process. CES recommends that the Commission move to an open enrollment year where customers could make the selection for their supplier of choice before the start of the program year, which would render delegation agreements obsolete.

CES believes that much of the confusion on the Nebraska Choice Programs centers around the use of delegation agreements coupled with the very short program selection time period. As described above, CES has recommended that the Choice Programs selection period be changed to an annual open enrollment process. If customers are able to enroll at any time during the year before the start of the program year, there would no longer be a need for delegation agreements.

B. Are Delegation Agreements appropriate to be used for each class of customer: residential, commercial, and agricultural? If no, why not?

If the delegation agreement process continues, the delegation agreement should be used for each class of customer. This is important because it is essential to developing an accurate eligible customer list that suppliers can use with confidence knowing who does and does not need to be contacted or sent marketing materials for upcoming the Choice Programs year.

C. Should suppliers be required to send confirmation letters to any customer that signs a Delegation Agreement? If so, when should that confirmation be sent, and what information should it include?

Recommendation: If the use of delegation agreements continues, a confirmation should be sent to the customer immediately following the submission and an update to the eligible customer list should be made.

If the Commission elects not to use an annual open enrollment approach, CES recommends in the alternative that, following receipt of a customer's delegation agreement, the utility should send a confirmation to the customer immediately following the delegation, and update the eligible customers list making it available to all suppliers. This further helps mitigate the issue where customers make an early delegation, forget that they have selected, and then continue to make one or more additional delegations selecting different suppliers. The way the delegation process works now, customers may not really know who their supplier will be for the following program year. This change to the process would actually create less work for the utility by spreading the enrollment processing period by distributing the workload throughout the year. The utility would avoid the extremely manual process of collecting the delegation forms, compiling them before the enrollment period, and then in the event a customer sent more than one delegation form. And the customer experience would be substantially improved by providing the customers insight and actual knowledge into the supplier they have selected without having to wait until the start of the program year.

VI. Customer Selection

- A. Once a customer makes a selection or signs a Delegation Agreement, are suppliers notified to remove that customer from further marketing? If so, how, and how quickly does this occur? If not, why not?**

The delay in receiving timely updates to the eligible customer list, has impacted the timely notification to suppliers. Customers are equally in the dark and confused as they continue to enroll in the Choice Programs selecting different providers. CES receives a daily list of customers to remove who have made delegations. CES proposes that the process of uploading a clean list should replace the daily list messages and provide the suppliers with the most up-to-date information.

- B. Do customers have an expectation that once they may selection or sign a Delegation Agreement, they will no longer be solicited? Is this currently occurring, and if not, how can it be accomplished?**

Customer expectation is hard to gauge because the actual behavior of customers indicates that even making a selection and signing a delegation agreement has not prevented customers from engaging in the supplier selection process a second or third time. This is most likely due to lack of education on the Choice Programs due to the truncated program enrollment period.

VII. Other Information

- A. Other commodity purchase periods in other jurisdictions are much longer than 2 weeks.**

In other choice states with program years, such as Michigan, customers are allowed to select their supplier throughout the year prior to the start of the program year. CES does not find a reason that gas Choice Programs should be treated any differently in Nebraska.

- B. There should be a centralized location to have a public listing of products and the pricing available.**

To compare products, customers have to check each supplier's website, and prices can change daily or even throughout the day. This inefficient process also inflates marketing costs for

suppliers, as one customer could return to the marketing website several times just to look at the price. Operationally and for customer ease of access, it would much more cost effective and user friendly if there were one site where customers could find enrollment information. One accretive step further would be to create a website where a customer can enter an account number, control number, and the confirmation number into a live portal with an open enrollment window that does not go into effect until the next program year. These customer focused efforts would create ease of use and reduce confusions creating manual work for utilities and suppliers alike.

VIII. Conclusion

CES appreciates the opportunity to provide comments on the Nebraska Choice Programs. CES supports the Commission in its efforts to refine and enhance the Choice Programs. CES believes that the existing Choice Programs have proven so valuable to customers that they continue to grow, and suppliers should continue to discuss the status quo and how best to meet customers' needs. CES looks forward to participating in the upcoming workshop.

Respectfully submitted,

CenterPoint Energy Services, Inc.

By: _____

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