

Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy
Docket No. NG-111.3/PI-237
Review of Protest of WoodRiver Energy, LLC Concerning the Conversion Surcharge
for the February 2021 Cold Weather Event

EXECUTIVE SUMMARY

On August 23, 2021, the Nebraska Public Service Commission (“Commission”) opened a docket to address an application filed by Black Hills Nebraska Gas, LLC, d/b/a Black Hills Energy, of Rapid City, South Dakota (BHE or “Company”), seeking to modify its tariff due to the February 2021 cold weather event. The proposed modification relates to costs incurred by customers electing to convert to the Company’s Energy Options program subsequent to the February cold weather event.

A petition of formal intervention was submitted by WoodRiver Energy, LLC (“WoodRiver”).

The submission in this case of a formal report by the Public Advocate (similar to the one the Public Advocate submitted in the original proceeding docketed NG-111.1) is not as useful at this time due to the fact that WoodRiver has not submitted and is not required to submit its prefiled testimony until October 22, 2021.

By this interim report, the Public Advocate intends to place into context the Public Advocate’s position on the conversion fee approved by the Commission on June 30, 2021, with an effective date of July 1, 2021.

The Public Advocate’s focus to date on the conversion fee is to ensure that the departure of Commercial or Small Volume Firm Sales customers from retail sales service and converting to transportation service did not reduce the funding level that was expected when the original volumetric cost recovery mechanism was established, which would increase the eventual costs to customers that remained on retail sales service (residential or commercial).

The Public Advocate’s long-time advisor Blue Ridge Consulting Services, Inc. (“Blue Ridge”) understands that BHE’s billing system has limitations, as identified by BHE in responses to the Public Advocate’s data requests in NG-111.1, and, until an alternative is provided, finds BHE’s conversion fee now in place not unreasonable. Thus, the Public Advocate does not consider itself to be in an adversarial position vis-à-vis BHE in this docket but would consider, with an open mind, any viable alternatives that may be proffered by its fellow intervenor, WoodRiver.

Assuming that WoodRiver or BHE submits a proposal concerning the conversion fee now in place, the Public Advocate intends to participate in any potential Technical Sessions or settlement conferences that may take place before the scheduled hearing date of November 17, 2021, and to participate in that scheduled hearing as well.

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ISSUE OVERVIEW

Background

During the period February 13–17, 2021, a large portion of the United States experienced extreme cold weather. An area extending through the center of the country from the northern border of the United States, through Nebraska, and reaching the southern edge of Texas experienced extreme low temperatures persisting over several days. Failures of the (Texas) electric grid due to weather caused significant decreases in natural gas supply, even as heating needs increased dramatically. The market for natural gas, therefore, became extremely competitive and prices soared.

Black Hills Nebraska Gas, LLC d/b/a Black Hills Energy (BHE or “Company”) reported to the Commission that the spike in natural gas prices was likely to cause a substantial impact upon customer bills in the ensuing months.

On March 2, 2021, the Nebraska Public Service Commission (“Commission”) opened Docket No. NG-111/PI-237 in order to understand the effects of this cold weather event (winter storm Uri) on the cost of gas supply purchased by Nebraska gas utilities subject to the Commission’s jurisdiction and to consider options to mitigate their impact upon customer bills.

On May 7, 2021, the Public Advocate provided to the Commission and parties to Docket No. 111.1 its detailed review of BHE’s proposal and included five specific recommendations:

- 1) The Commission should consider reducing the Company’s request for the full WACC and consider carrying costs be calculated based on the actual cost rates.
- 2) Should the Company’s per therm proposal recovery be accepted, the Commission should include a requirement that the Company publicize the availability of budget billing to level out the impact of the Cold Weather Gas Cost Recovery Mechanism.
- 3) Any increased jurisdictional firm revenue (during the period of the Cold Weather Gas Cost Recovery) resulting from the transfer of interruptible customers to firm service due to winter storm Uri should be used to offset Cold Weather Gas Costs. Otherwise, this new revenue, which is a result of the winter storm event, will accrue to the Company and its stockholders.
- 4) The Commission should monitor the natural gas weatherization changes eventually implemented in Texas to determine whether Texas regulatory changes (if any) are sufficient to protect Nebraska customers from future events similar to the events of 2011 and 2021.
- 5) The Commission should forward its determination of the magnitude of the extreme costs of winter storm Uri to the NE Attorney General for evaluation as to whether the gas pricing mechanism used during winter storm Uri was inappropriate and/or subject to price manipulation. While remedies within Nebraska may not exist, a concerted and coordinated effort by states affected by the Texas problems should be considered at the federal and/or class action level.

The Commission adopted the Public Advocate’s recommendations in its May 25, 2021, order allowing BHE to implement a volumetric cost recovery mechanism.

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BHE subsequently requested reconsideration of the Commission’s decision that “[s]hould there be any cost savings realized by Black Hills due to the switching of interruptible customers to firm rates, such cost saving must be used to offset the costs of gas purchases made between February 13–18, 2021.”¹

On June 29, 2021, the Commission overruled BHE’s motion concerning new interruptible customer revenue.

Conversion of Existing Customers to the Energy Options Program

On or about June 7, 2021, BHE expressed its concern to the Public Advocate and Commission Staff that marketers in the Energy Options program are pitching the idea to commercial customers that, if they convert to the Energy Options, they will avoid paying the volumetric cost mechanism for the cold weather event.

The Public Advocate consulted with its long-time advisor Blue Ridge Consulting Services, Inc. (“Blue Ridge”). The overall concern was that customers that did not convert to the Energy Options program (including residential and commercial customers) would be subject to increased costs that would otherwise have been allocated to and paid by customers that elected to convert to Energy Options.

The Public Advocate subsequently began informal discussions with BHE to understand and examine BHE’s proposal to request a conversion fee to be assessed on commercial sales customers that might attempt to avoid their share of the February cold weather event by switching to transportation service.

The Public Advocate’s focus was to protect existing customers and to understand the development of the Company’s yet to be filed proposal. The informal discussions highlighted that while there may be a wide range of alternatives, most were precluded by limitations of BHE’s billing system and/or increased administrative costs.

On June 28, 2021, BHE filed its petition for a three-step conversion fee to be assessed on Commercial or Small Volume Firm Sales customers converting from sales to transportation service. The “step” charge will be determined based upon which year the customer converts, consistent with the existing volumetric cost recovery mechanism. Blue Ridge understands that BHE’ billing system has limitations and, until an alternative is provided, finds BHE’s conversion fee not unreasonable.

WoodRiver Petition of Formal Intervention (August 4, 2021)

On August 4, 2021, WoodRiver submitted a Petition of Formal Intervention to the Commission, noting “The proposed implementation of this new fee would directly affect the pecuniary and financial interests of WoodRiver as it may disincentivize customers from participating in the Energy Options Program.”

¹ Order dated June 29, 2021 Docket No. NG-111.1

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To Blue Ridge’s knowledge, WoodRiver has not yet made any proposals within this docket to modify, replace, or eliminate the conversion fee. This understanding is consistent with the established procedural schedule.

Discovery (September 17, 2021)

Three sets of discovery were made and answered by the parties:

- Discovery requests from WoodRiver to BHE exploring these items:
 - How the conversion fee amount was developed and the individuals involved
 - Whether other methods of implementing the conversion fee were considered
 - The various alternatives considered by BHE and why an alternative may not have been selected
 - Whether administrative cost considerations influenced the design of the conversion fee
 - Identification of all BHE affiliates that have or will implement a conversion fee and the parameters involved
 - A history of prior conversions for 2018, 2019, and 2020
 - Billing options and software systems used
 - Natural gas usage according to specified percentiles, the number of commercial customers involved, and the potential cost impact to customers
- Discovery requests from the Public Advocate to WoodRiver exploring these items:
 - The usage frequency distribution, contract type, and escalation terms for WoodRiver’s present BHE customers
 - WoodRiver’s actions during the February 2021 cold weather event
 - WoodRiver’s relationship with affiliated gas producers and their efforts to provide increased supply during the February 2021 cold weather event
- Discovery requests from the Public Advocate to BHE exploring these items:
 - The various alternatives considered by BHE and why an alternative may not have been selected
 - The billing systems used by BHE and its affiliates and its capabilities
 - The usage frequency distribution for Commercial or Small Volume firm sales customers

Analysis of Proposals and Discovery

While the discovery responses provide information, at this time no alternative proposal has been made by any party, and thus, Blue Ridge cannot provide an analysis of any alternative to the existing conversion fee. Blue Ridge and the Public Advocate do request the right to supplement this report after the filing of the WoodRiver prefiled testimony to provide comments thereon and supplemental analysis and recommendations related to any positions, suggestions, or alternatives proffered by WoodRiver.