

June 11, 2024

**VIA EMAIL**

Nebraska Public Service Commission  
300 The Atrium  
1200 "N" Street  
Lincoln, ME 68508

**RE: WoodRiver Energy, LLC Comments in NG-102/PI-225, In the Matter of the Commission, on its own motion, seeking to review policies and practices relating to the administration of customer choice programs for natural gas service offered within the State of Nebraska.**

Chair Watermeier, and Commissioners Mirch, Schram, Kamler, and Stocker,

Pursuant Nebraska Public Service Commission *Progression Order No. 7* issued May 14, 2024, in the above referenced proceeding please find attached the Comments of WoodRiver Energy, LLC in advance of the workshop to be held on June 18, 2024.

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

Respectfully submitted,

Alex Goldberg

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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 )  
customer choice programs for natural gas )  
service offered within the State of Nebraska )

**COMMENTS OF WOODRIVER ENERGY, LLC**

WoodRiver Energy, LLC (“WoodRiver”) hereby submits its comments in response to the Nebraska Public Service Commission’s (“Commission”) May14, 2024, *Progression Order 7* in the above referenced proceeding. *Progression Order 7* set a Workshop date for the purpose of reviewing the 2024 Choice Gas Selection Period of June 18, 2024 (“Workshop”) and requested that any written comments or documentation that parties would like to be considered at the Workshop be submitted by today, June 11, 2024, at 5:00 p.m. Central Time.

**I. Introduction**

WoodRiver is a privately-owned natural gas marketing company providing reliable natural gas service to agricultural, commercial, and industrial natural gas customers throughout Nebraska and neighboring states. WoodRiver is a Certified Natural Gas Provider (“CNGP”) in the State of Nebraska natural gas choice program (“Choice Program”). WoodRiver is an active supplier in both the Retail Choice Program and the Agricultural Choice Program. For 2024, WoodRiver has the largest customer count of any CNGP in the Nebraska Agricultural Choice Program administered by Black Hills Nebraska Gas, LLC’s (“Black Hills”). Black Hills is a jurisdictional gas utility system. The Black Hills affiliate, Black Hills Energy Services, has the second largest customer count of any CNGP in the Nebraska Agricultural Choice Program.

Black Hills’ published 2024 customer count for the Agricultural Choice Program is as

follows:<sup>1</sup>

SUPPLIER	NUMBER OF ENROLLEES
Constellation Energy	1580
Uncle Frank Energy Services	73
Black Hills Energy Services	2475
Vista Energy Marketing	519
Symmetry Energy	366
WoodRiver Energy	2770
Legacy Natural Gas	112

Each CNGP in the Nebraska Agricultural Choice Program must annually execute a Agricultural Choice Gas Program Supplier Participation Agreement (“Participation Agreement”). The Participation Agreement contains the following credit provision:

**Credit and Performance Assurances:** At least sixty (60) days prior to the commencement of an Agricultural Choice Gas Program Year, Supplier shall provide BH Nebraska Gas performance assurances evidencing Supplier's ability to perform its obligations and meet its commitments under this Agreement. Such assurances shall be in the form of a Letter of Credit that is in a form acceptable to BH Nebraska Gas, or in the form of an unconditional Parent Guaranty, attached hereto and made a part hereof, for any subsidiary debt in lieu of the Letter of Credit; provided the parent company holds an investment grade rating, or other form of performance acceptable to BH Nebraska Gas. In order to qualify as a new Supplier under BH Nebraska Gas' Agricultural Choice Gas Program, Supplier agrees to provide BH Nebraska Gas with three years of audited financial statements and Supplier agrees to provide notice to BH Nebraska Gas in writing no later than five (5) days from the event of any material changes in Supplier's financial conditions that could affect Supplier's ability to perform its obligations and meet its commitments pursuant to this Agreement, including, but not limited to, a downgrade in Supplier's credit rating. Failure to provide such notice shall deem the Supplier to be in breach of this Agreement, and subject to disqualification from participation in the Program.

Notably, the credit provision does not contain any provision whatsoever for determining the amount of credit that must be posted by any CNGP. Likewise, the Black Hills tariff is similarly silent on any methodology for determining the appropriate credit requirement for any CNGP. Instead, Black Hills provides

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<sup>1</sup> [Agricultural Choice Gas customers | Black Hills Energy](#)

each CNGP with a statement of its credit requirement for the upcoming plan year on or around the beginning of that plan year. This year, WoodRiver received its' form of Parental Guarantee and Credit Requirement Calculation on May 31, 2024. The Credit Requirement Calculation format for Plan Year 2024 – 2025 is unchanged from the previous few years. Pursuant to this format, the CNGP's credit requirement is set at the higher of the CNGP's calculated Credit Requirement for the Agricultural Choice Program or the Residential Commercial Choice Program.

For the Agricultural Choice Program, Black Hills calculates the credit requirement by taking the individual CNGP's customer count and multiplying that number by a daily volume per customer to get a total daily volume for that CNGP. Black Hills then takes the total daily volume and multiplies it by a gas price of \$15 per unit to get a total daily gas cost number in dollars, which it then multiplies by 10 days to get the total credit requirement for the CNGP for the program year.

For the Residential Commercial Choice Program, Black Hills calculates the credit requirement by using the CNGP's contracted upstream interstate natural gas pipeline maximum daily quantity as its' total the total daily volume. It then multiplies the total daily volume by a gas price of \$15 per unit to get a total daily gas cost number in dollars, which it then multiplies by 10 days to get the total credit requirement for the CNGP for the program year.

In the case of WoodRiver, the Agricultural Choice Program credit requirement is the higher of the two and sets WoodRiver's credit requirement for the whole year.

WoodRiver's credit requirement for 2024 is approximately \$10 million. WoodRiver is not a part of a large company with an investment grade credit rating that can provide it with a parental guaranty at no cost. However, through a contractual relationship with Shell Energy North America (US), L.P., WoodRiver is able to post an acceptable guarantee to Black Hills, but at a cost for approximately \$10 million of credit support of approximately \$750,000 for the 2024 – 2025 plan year.

WoodRiver and Black Hills recently engaged in a productive discussion regarding the credit requirements calculation for the Agricultural Choice Program for the 2024 – 2025 plan year. However, while Black Hills indicated a willingness to consider a change, it did not make any commitment for the 2024 – 2025

plan year or any time in the future.

**II. Comments**

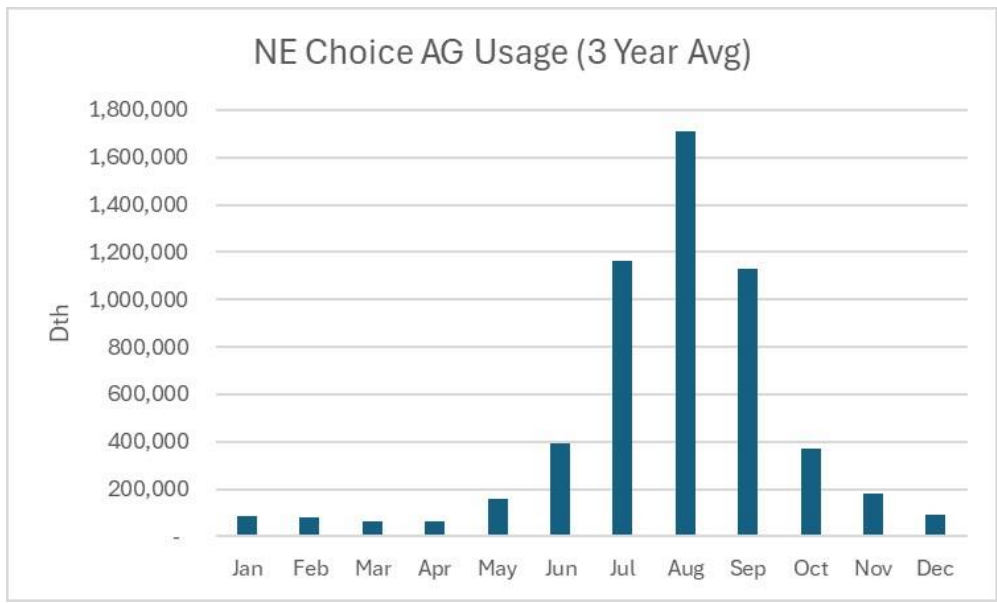
- Black Hills credit requirements are not consistent between Choice Program. Black Hills’s Agricultural Choice Program credit requirements were 118% higher than the credit requirements for the Residential Commercial Choice Program in the 2023 program year. The table below shows credit requirements as a \$/Dth. (The calculations are based on the Black Hills supplier files and the current credit requirements calculation formula).

			Delta	
	RESCOM	AGR	\$	%
2023	\$ 2.29	\$ 4.98	\$ 2.69	118%
3 Yr Avg (21 - 23)	\$ 2.34	\$ 5.19	\$ 2.85	122%
Max (2019)	\$ 2.10	\$ 9.44	\$ 7.34	349%
Min (2022)	\$ 2.30	\$ 4.86	\$ 2.56	111%
<b>Max/Min based on data from 2014 - 2023</b>				

As a point of reference, this summer commodity prices are less than \$2.50/Dth. Black Hills’s credit requirements are roughly 200% of the cost of providing the commodity.

- Black Hills’s excessive Agricultural Choice Program credit requirements limit competition by needlessly raising the costs.
- Black Hills’s excessive AG credit requirements favor suppliers that have investment grade credit.
- Black Hills’s Agricultural Choice Program credit requirements calculation does not account for the fact that Black Hills is not directly exposed to any supply imbalances. That exposure is managed in the supplier’s contractual relationship with the upstream pipeline – Tallgrass Interstate Gas Transmission (TIGT). Black Hills is not a party to this contractual relationship.
- Black Hills controls the credit requirements calculation. It is not addressed in the tariff.

- WoodRiver does not object to Black Hills’s Residential Commercial Choice Program credit requirements calculation. In the post Storm Uri environment, those calculations are defensible.
- WoodRiver has consistently objected to the Agricultural Choice Program’s credit requirements calculation. The issue is more pressing now given the current interest rate environment. WoodRiver will be spending over \$750,000 this year to participate in in the Black Hills Choice Programs. Last year, to provide a similar amount of credit, WoodRiver spent approximately \$500,000.
- The Black Hills credit requirements for WoodRiver’s participation in the Agricultural Choice Program takes up a disproportionate share of WoodRiver’s credit availability.
- As an interim step, WoodRiver suggests implementing a seasonal credit requirements calculation. Use the current Agricultural credit requirements calculation for the six months of June through November, including the summer when agricultural customers are using the most gas and the Residential Commercial calculation for the six months of December through May, including the winter when agricultural customers are using the least gas. Black Hills has agreed to do this in the past (2016 – 2018).



(The calculations are based on the Black Hills supplier files for 2021 - 2023).

- As a permanent remedy, WoodRiver is asking for a comprehensive review of the credit requirement calculation to determine a methodology that protects Black Hills and its customers while not needlessly stifling competition and discriminating against smaller suppliers.

### **III. Conclusion**

WoodRiver appreciates the opportunity to provide comments on the 2024 Choice Gas Selection Period. WoodRiver looks forward to participating in the June 18, 2024 workshop.

Respectfully submitted,

WoodRiver Energy, LLC

By: /s/ Alex Goldberg

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