

June 28, 2024

VIA EMAIL

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

RE: WoodRiver Energy, LLC Reply 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 ("Commission") *Progression Order No. 7* issued May 14, 2024, the Commission held a Workshop in the above referenced proceeding on June 18, 2024. As follow up to the Workshop, WoodRiver Energy, LLC submits the attached Reply Comments.

As a courtesy, a copy of the Reply Comments is being sent concurrently to counsel for Black Hills Nebraska Gas, LLC.

Please let us know if you have any questions.

Respectfully submitted,

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Outside Counsel for WoodRiver Energy, LLC

cc: Douglas Law, Associate General Counsel, Black Hills Nebraska Gas, LLC
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)

REPLY COMMENTS OF WOODRIVER ENERGY, LLC

WoodRiver Energy, LLC (“WoodRiver”) hereby submits its comments in response to the Nebraska Public Service Commission’s (“Commission”) June 18, 2024 Workshop in the above referenced proceeding for the purpose of reviewing the 2024 Choice Gas Selection Period (“Workshop”).

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.

On May14, 2024, the Commission issued *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 and a deadline for providing written comments of on or before Tuesday, June 11, 2024, at 5:00 p.m. Central Time. WoodRiver submitted comments on June 11,

2024. The only other comments filed for the Workshop were those of Black Hills, received by the Commission on Friday, June 14, 2024.

WoodRiver's June 11 comments were filed for the purpose of encouraging discussion of the Black Hills credit requirements for participation in the Agricultural Choice Program administered by Black Hills. Black Hills' comments address a number of issues, but among them is a reference to future changes to credit requirements and future changes to Choice Program tariffs, including for the Agricultural Choice Program. The Black Hills comments also discuss the results of the 2024 Agricultural Choice Program, generally.

II. SCOPE OF THE PROCEEDING

As stated by Black Hills in their comments filed prior to the Workshop, “[p]ursuant 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.” Although the “recommendations and expectations” primarily related to the Residential/Commercial Choice Program, there were also “recommendations and expectations” related to the Agricultural Choice Program.¹

Thereafter, Black Hills has included information related to the Agricultural Choice Program in each update to the Commission in this docket, including in the most recent update received by the

¹ See Progression Order 1 at 4 (“The Commission further orders that BHGD, as part of its annual Choice program report, shall include the following information: The percentage of customers making an active selection in each class”), and 6 -7 (“If DAs continue to be used for al customer classes in the upcoming year, the Commission also recommends reviewing the form and providing separate forms, specific to the State of Nebraska Choice Program, for each customer class.”)

Commission on June 14, 2024.²

While the focus of this proceeding may be on the Residential/Commercial Choice Program, there is clearly also interest in the Agricultural Choice Program.

III. JURISDICTION

At the Workshop, comments were made regarding the limited scope of the Commission's jurisdiction over the Agricultural Choice Program. While the Commission's jurisdiction is admittedly limited, it is not non-existent. However, due to time limitations at the end of the Workshop, the extent of that jurisdiction was not discussed and there was inadequate time at the end of the Workshop to discuss the issue of the credit requirements Black Hills places on the Agricultural Choice Program.

The Black Hills Nebraska Natural Gas Tariff ("Black Hills Tariff") filed with the Commission states that the Commission has limited jurisdiction over Agricultural Customers, and that they "are not subject to this tariff except as defined herein or otherwise applied by the Company". However, the Black Hills Tariff contains rates for certain services to agricultural customers³ and multiple tariff sheets related to the Agricultural Choice Program.⁴ Of primary relevance to this proceeding is the statement in the Black Hills Tariff related to the Agricultural Choice Program that⁵:

[Black Hills] will give fair and equitable treatment in its customer and public communications and in its administration of the Choice Gas Program to all Suppliers.

Clearly, the Commission's jurisdiction extends to the filed Black Hills tariff. WoodRiver has raised an issue related to the fair and equitable treatment of suppliers and hence to the Black Hills customers – that pay the rates in the Black Hills Tariff that are specifically subject to review by the

² See Black Hills Comments, Exhibit A at pp. 3 – 4.

³ See Black Hills Tariff at Sheet No. 78.

⁴ Id. at Sheet Nos. 108 - 118. Commission authority to approve this tariff sheets may be found in [NE Code § 66-1855 \(2023\)](#).

⁵ Id. at Sheet No. 118.

Commission as the result of a complaint.⁶

IV. COMMENTS

In its Comments filed with the Commission prior to the Workshop, WoodRiver detailed the reasons why the current Black Hills Agricultural Choice Program supplier credit requirements may not be fair and equitable. Without agreeing with WoodRiver, and as discussed at the Workshop and in the Black Hills comments, Black Hills plans to re-evaluate the supplier credit requirements for the 2025 – 2026 plan year. WoodRiver would like the opportunity to participate in this re-evaluation, and if it is allowed to do so, all suppliers should have the same opportunity.

The re-evaluation should take into account 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. The Agricultural Choice Program credit requirements should also account for the negotiated bi-lateral nature of the supplier/customer commodity sales relationship with the agricultural choice customers, and that Black Hills has no obligation to keep such customers whole on commodity sales should the supplier default. In conjunction with the fact that Black Hills holds customer receivables, this is a program where Black Hills has very little risk. The re-evaluation should take this into account and only place credit risk on suppliers that is commensurate with Black Hills' risk.

Based on the actual risks faced by Black Hills in the Agricultural Choice Program, WoodRiver believes that credit requirements for the Agricultural Choice Program that are on a par with the credit requirements for the Residential/Commercial Choice Program would be appropriate. WoodRiver would like to work with Black Hills as a part of a formal and open process to understand

⁶ [NE Code § 66-1810 \(2023\)](#). The Commission may also modify the terms of Black Hills' choice program after a complaint or on its own motion "wherein the commission finds, after hearing, that one or more aspects of the program are unduly preferential, unjustly discriminatory, or not just and reasonable." See [NE Code § 66-1851 \(2023\)](#).

whether this is, in fact, the case.⁷

V. CONCLUSION

WoodRiver appreciates the opportunity to provide reply comments on the 2024 Choice Gas Selection Period. WoodRiver looks forward to working with Black Hills regarding future credit requirements for Agricultural Choice Program suppliers.

Respectfully submitted,

WoodRiver Energy, LLC

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Dated, June 28, 2024

⁷ The Agricultural Choice Program is predominantly a summer program that by its nature is less risky than a winter program, both in terms of price and reliability. Nonetheless, WoodRiver is only advocating for the Agricultural Choice Program credit requirements to be on par with the credit requirement for the Residential/Commercial Choice Program.