

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. NG-102/PI-225
Commission, on its own motion,)
seeking to review policies and)
practices relating to the) PROGRESSION ORDER #3
administration of customer)
choice programs for natural gas)
service offered within the)
State of Nebraska.) Entered: July 14, 2020

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission"), on its own motion, opened the above-captioned investigation 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").

Previously in this docket, the Commission solicited written comments and held a workshop in the fall of 2019 regarding a range of topics primarily related to residential customers within the Choice program administered by Black Hills Nebraska Gas, LLC ("BHNG"). The Commission also hosted an online web survey in the spring of 2020 for customers in the Choice program to express opinions regarding the Choice program, and received responses or partial responses from sixty-nine participants.

In March 2020, the Commission issued Progression Order No. 2, soliciting further comments on the docket. Specifically, the questions posed by the Commission in this order focused upon topics relevant to the 2020 BHNG Choice program selection period and potential changes to the program going forward. Comments were received from six parties:

Black Hills Nebraska Gas ("BHNG" or "Administrator")
Black Hills Energy Services Company ("BHES")
Constellation NewEnergy Gas ("CNEG")
Heartland Natural Gas, LLC ("HNG")
Public Alliance for Community Energy ("ACE")
WoodRiver Energy ("WoodRiver")

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Following submission of the comments, the Commission held a workshop on June 17, 2020. Based upon the comments submitted, the Commission prepared an agenda and distributed it to parties in advance. Representatives of each party submitting comments participated in the workshop, as well as Commissioners and Commission staff.

D I S C U S S I O N A N D R E C O M M E N D A T I O N S

The Commission may, under Neb. Rev. Stat. § 66-1855, authorize customer choice programs such as the Choice Program reviewed within this docket. The Commission is further authorized by Neb. Rev. Stats. §§ 66-1848 and 66-1849 to certificate competitive natural gas providers ("CNGPs"), to promulgate rules and regulations relating to CNGPs, and to resolve disputes involving the provision of natural gas services by CNGPs.

Based upon the comments submitted and the discussion held during the June 17 workshop, the Commission makes the following recommendations and limited findings.

Delegation Agreements

The Commission solicited discussion regarding whether delegation agreements (DAs) would be used as a marketing tool in the Choice program going forward. In comments and at the workshop, BHNG confirmed that the use of DAs would be stopped for all residential and commercial customers going forward. BHNG noted several ongoing issues in administering the use of DAs, and based on this, have determined they will not be used beginning with the 2021 selection period.

At the workshop, some parties expressed hesitation with this change, noting that DAs may be helpful for certain customers in extending the selection period. Suppliers also requested that if significant changes would be made to the program, that they be announced well in advance so that suppliers can plan in advance.

The Commission appreciates the respective positions of the administrator and the suppliers, and hopes that all parties will continue to collaborate on this issue. Given that this is a significant change to the program, the Commission anticipates at this time that it will seek comments following the 2021 selection period to review this change.

Customer Education

During the 2019 workshop in this docket, several parties expressed interest in increasing the level of consumer education on the Choice program. The Commission also increased the amount of information available on its own website. For the June 2020 workshop, the Commission requested feedback as to whether suppliers had made any changes to their customer education, and as to the changes made to the Commission website.

Feedback as to the Commission's increased educational materials was generally positive. The administrator, as well as many suppliers, stated that they had increased customer education and that they had seen an increase in the number of customers actively enrolling. Some suppliers expressed a desire to ensure that all information sent to customers from various parties is consistent.

The Commission encourages participants in the Choice program to continue to provide educational materials for customers. The Commission finds that it should continue to provide customer information regarding the Choice program on its own website, and invites participants in the program to continue to collaborate with each other and with the Commission to ensure accurate information is easily accessible to customers.

Selection Period

The Commission sought input as to whether the length of the selection period, currently at two weeks, is sufficient. BHNG submitted comments in response stating that it intends to modify the program going forward so that the marketing period will now coincide with the selection period. Beginning in 2021, both the selection and the marketing periods will begin in mid-March and continue through the end of April, lasting approximately six weeks. BHNG stated that high volume customers will have a longer enrollment period than they currently have, and that agricultural customers will still be able to enroll year-round. BHNG stated that this approach will have the benefit of reducing confusion among suppliers regarding applicable marketing rules and the administrative burden.

Several suppliers expressed concerns regarding this plan, including the possibility that customers may be confused due to frequent changes in the program from year to year. Suppliers also noted that customers often encounter difficulties in obtaining

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their control number to make a selection, and that it may be beneficial in the coming selection period for the administrator to set up a dedicated phone line for this purpose. BHNG noted that this proposal could be burdensome in terms of staffing levels.

The Commission appreciates the update on the status of the program and the comments from suppliers. The Commission requests that the administrator keep the Commission informed as to the 2021 Choice program dates.

The Commission also notes that previously in this docket, it requested that BHNG provide to the Commission a copy of the information packet sent to customers prior to the beginning of the selection period. The Commission requests that it receive this information each year so that it can be better prepared to communicate with consumers and give them accurate information. The Commission reiterates this request for the 2021 selection period.

As the changes described above are, again, significant, the Commission anticipates revisiting this topic in future comments and/or workshops.

Dispute Resolutions

During the 2019 workshop in this docket, many parties expressed interest in continuing to improve the Choice program dispute resolution process. The Commission therefore requested information regarding how the current dispute resolution process works, as well as comments as to what could be done better, and whether a standard policy of remedies and sanctions is needed. In the June 2020 workshop, parties generally expressed that the dispute resolution process had been improved and that they were pleased with the additional feedback provided by BHNG.

In its comments, BHNG stated that there is currently no standard policy of remedies and sanctions, but that it supports creating one. During the workshop, BHNG emphasized that its response to complaints is generally on a case-by-case basis in order to allow for flexibility and appropriate responses. BHNG did note that in response to certain complaints, it has placed a hold on a supplier's marketing activities, which it felt was effective.

Suppliers also commented that they supported the development of a standardized policy of sanctions and remedies for violations of the Code of Conduct. Suppliers generally agreed that the policy should be flexible, and that it should include a fair appeals

process, as well as protocols for investigating and documenting complaints. However, suppliers were hesitant to suggest specific remedies.

The Commission notes that there appears to be a consensus that a standard policy of remedies and sanctions is desirable, but that questions remain as to the details of such a policy. The Commission recommends that all parties continue to develop ideas related to this issue, and will consider this as an item for future discussions.

Default Pricing

The Commission sought information regarding the difference between pricing offered to customers during the marketing period, and the pricing assigned to customers who did not make a selection for the 2020 selection period. Suppliers did provide this information in their annual reports, and some suppliers also provided an estimate of what the difference in pricing might mean for an average customer within various customer classes.

During the workshop, parties expressed some interest in maintaining more balance between the prices paid by customers who make a selection and those who do not. Some parties expressed support for setting a limit on the default price, or a requirement that the default price not be the highest price offered. However, other parties expressed hesitation regarding how such a change might be implemented, noting that it is the customer's choice to not make a selection. Parties also noted that the Choice program is based upon the principle of competitive tension, which in itself is designed to drive rates lower.

In reviewing suppliers' annual pricing reports, the Commission notes that the default rate offered by nearly every supplier is higher than the rates offered by the same supplier during the selection period. The Commission also notes that some consumers in its consumer survey expressed opinions consistent with a lack of understanding that not making a selection results in a different rate than making a selection. While the Commission recognizes that some customers may prefer not to make a choice, the Commission supports continued efforts to educate consumers and ensure awareness of the various options available.

Given the significant changes to the program announced by the administrator for the upcoming selection period, the Commission

will continue to monitor this topic and will consider it as an area for future discussion.

Energy Options

The Commission also solicited comments regarding the current allocation method for the Energy Options program. BHNG submitted comments on this topic strongly supporting its current peak period usage allocation method. Constellation also submitted comments in support of peak period usage allocation, noting that the method used is standard in the industry nationwide. Heartland Natural Gas and WoodRiver Energy submitted comments supporting a pro rata allocation method.

Having reviewed the written comments and workshop comments on the matter, the Commission encourages parties to the Energy Options program to continue to collaborate on the issues raised. The Commission notes that BHNG has filed an application for a general rate increase with the Commission, stating that BHNG is not modifying the Choice and Energy Options programs at this time, as any such changes will be addressed in a separate proceeding. The Commission will continue to monitor these issues.

C O N C L U S I O N

The Commission thanks all parties who have participated in this investigation to date, as well as all consumers who participated in the Commission's customer online web survey. It is the wish of the Commission that all parties to this docket will continue to strive for open communication, effective administration of the Choice program, and a high level of customer satisfaction.

This docket will remain open to address those and other issues within the Choice Program, and the Commission invites further comments and work on these issues in the meantime. In order to promote open communication and collaboration, the Commission requests that communication with the Commission on matters relating to this docket remain, to the extent possible, limited to filed comments and discussion at public meetings.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the statement of recommendations and expectations of the Commission regarding these matters as outlined above be, and are hereby, adopted.

IT IS FURTHER ORDERED that Black Hills Nebraska Gas provide the Commission with a copy of the program information packet sent to consumers at the beginning of the selection period, beginning with the 2021 selection period.

IT IS FURTHER ORDERED that this docket shall remain open for the purpose of continuing to gather information regarding, and reviewing the administration of, customer choice programs for natural gas service offered within the State of Nebraska.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 14th day of July, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Crystal Sanchez
Tom Schram
Dee Watson

Mary Keddin

Chair

ATTEST:

Michael S. Hyl

Executive Director