BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its 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.	))))))	Application No. NG-102/PI-225

COMMENTS OF PUBLIC ALLIANCE FOR COMMUNITY ENERGY (ACE)

The Public Alliance for Community Energy (ACE) is the retail natural gas supply organization of NMPP Energy. ACE, a Nebraska Interlocal agency, was formed in 1998 by a group of communities to compete in the Choice Gas program and today is 74 communities strong. As a Nebraska-based supplier, ACE has participated in every year of the Nebraska Choice Gas program. ACE is a recognized Competitive Natural Gas Provider under the Nebraska Public Service Commission rules and directives.

ACE was created with three goals in mind: lower rates for all consumers through competition, advocacy for the consumers by keeping abreast of issues that impact ratepayers' gas bills and a potential direct benefit to communities through a revenue return program. Since its beginning, ACE has worked tirelessly to meet these goals. ACE appreciates the Commission's interest in the Choice Gas Program. By seeking input from the administrator and participating suppliers, the program can be improved to benefit all parties, including the administrator, suppliers, and most importantly, the ratepayers.

ACE Comments

1. **2020 Selection Period.**

   a. **Did the 2020 selection period run smoothly? What went well? Were any issues encountered that should be addressed for coming years?**

In general, the 2020 Choice Gas two-week Selection Period ran smoothly once it opened in April. The formalized Selection Period provides a good framework with defined processes for the Choice Gas Administrator, suppliers and customers. Customer contact, selection submission, file exchanges, notifications, etc., functioned well. This was true despite operating in the unprecedented global pandemic which caused ACE call center representatives to work remotely. Communication and support with Black Hills Energy (BHE) and with customers were generally very good.

Issues experienced during the Selection Period primarily involved the heavy use of Delegation Agreements (DAs) as a marketing tool, the lengthy pre-enrollment period and the confusion it creates among customers. Initially, BHE delayed confirmation of valid delegation agreements due to extensive workload in Wyoming, in turn causing ACE to delay sending confirmation letters to customers. Once confirmed by BHE, ACE sent confirmation or explanation letters to all customers who submitted DAs to ACE. However, suppliers received only confirmation from BHE of their own DAs, with no notice given when customers executed DAs with another supplier. This means many customers who had already submitted a DA continued to receive offers from other suppliers for a 3-month period. This caused many customers to call and confirm their selection via DA, thinking they were "done," yet they were continuing to receive marketing from multiple suppliers. Also during the pre-enrollment period, a competing supplier erroneously told customers ACE was no longer in the program, another element of confusion since this occurred during the Choice Gas Agricultural Selection Period in February and the supplier reportedly looked at the list of agricultural suppliers which doesn't include ACE.

   b. **Was anything different in the 2020 selection period, as compared to past years?**

Recognizing the confusion created by the heavy use of DAs during the pre-enrollment period, BHE made some good improvements to the delegation agreement form, including requiring a price to be reflected on the form. Unfortunately, customers found the language in the price section confusing as they were not familiar with the difference between "Price Option" and "Customer Price." BHE also made a change to allow suppliers to include logos on the form to assist in identification. This may have contributed to a smaller number of invalid DAs, since customers could be directed to look for a logo instead of a specific authorized signature. This may have had an unintended consequence, advantaging Black Hills Energy Services as the affiliate supplier of the utility due to name and logo recognition. BHE also changed the start date for the pre-enrollment period to coincide with receipt of the new eligible customer file. However, it seems apparent that most suppliers initially marketed from an outdated file in order to gain a competitive edge, still contributing to customer confusion because marketing was likely conducted to customers who may have moved or were otherwise ineligible to choose.

BHE made positive improvements in other processes, sending reminder postcards to customers regarding early enrollment and again to customer who hadn't made a selection by the middle of the Selection Period. New, smaller selection packets were probably less overwhelming to customers. BHE also tightened marketing guidelines to more severely limit the number of marketing phone calls and emails to customers. Due to potential contact to customers from seven suppliers over a three-month timeframe, this was critical. General feedback from customers, however, would lead ACE staff to believe supplier contacts may have been much more frequent than this.

2. **Customer Education.**

   a. **Has your entity increased its customer outreach and education regarding the Choice program? If so, what was done, and what was the customer response?**

As a community-owned supplier, ACE has always done extensive customer education through its municipal members, website and social media platforms including Choice Gas infographic flyers and videos. This was expanded even more this year and included presentations to municipal clerk organizations and community groups. Efforts were well-received, including positive social media feedback and repeat invitations to speak to groups about the value of the Choice Gas Program.

b. **The Commission has increased the amount of customer education materials available on its website (https://psc.nebraska.gov/natural-gas/consumer-choice-program). Is what is currently available sufficient, or should it be added to our otherwise improved?**

The increased content on the Commission's website is a valuable addition to the Choice Gas Program. However, customers in general are not aware of the Commission's oversight of the program and finding it through online search tools can be difficult without a direct link. Linking the content in news releases prior to the Selection Period would provide greater accessibility to customers at a time when they need it most. Another news release providing supplier rate data after the Selection Period would also help customers understand the importance of choosing. Initiation of a customer survey by the PSC was also a very positive step and should provide customer insight into the effectiveness of the Program. The role of the PSC could be enhanced if BHE were to include where to find PSC data on the web in Selection Period materials, bill inserts and other information to customers.

c. **What can individual suppliers do to increase the level of customer education regarding the Choice program?**

Websites and other electronic platforms provide a year-round opportunity to advance customers' understanding of the Choice Gas Program. Additionally, every single customer contact is an opportunity to emphasize the value of choosing. Suppliers must ensure their customer service representatives have a comprehensive understanding of the Choice program and should also provide scripts to their representatives to promote the value of choosing, not just once, but every year.

3. **Delegation Agreements.**

a. **<u>For the administrator only:</u> During the previous workshop in this docket, BHNG indicated it did not intend to continue using delegation agreements ("Das") for residential customers after the 2020 selection period. Does BHNG still plan to eliminate the use of Das for residential customers going forward? If not, what has changed?**

b. **Should Das be available for commercial customers? If so, should small commercial customers be treated differently that large commercial customers?**

As customers in the Choice Gas Program, no distinction should be made between the selection process for small and large commercial customers. To that end, BHE should eliminate the requirement that large commercial customers submit a DA in order to make a multi-year selection.

Beyond that, ACE would respectfully redirect the perceived intent of this question. From discussion in the workshop conducted by the Commission on September 25, 2019, the dramatic increase in the use of DAs in recent years can be attributed to the use of these agreements as a marketing tool, predominantly during the pre-enrollment period. Use of DAs as a marketing tool, i.e., sent out to customers without the customer's request, should be eliminated entirely for all customer classes, including residential, commercial and industrial. DAs do serve a useful purpose during the defined Selection Period, by request of the customer, as a convenience tool in order to make a selection. In this way, residential and commercial customers can more easily complete selections for multiple accounts, e.g., landlords with multiple residential properties or commercial customers with multiple locations. In isolated instances, delegation agreements can also be useful for a customer who cannot access his or her control number without putting undue pressure on the BHE call center, and also economizes the customer's time. *Under no circumstances should suppliers be allowed to send out DAs en masse to customers as a marketing tool, either before or during the Selection Period*, to any customer class. In order to accomplish this, ACE would propose suppliers only be allowed to send a DA to a customer upon request. In essence, DAs should be used as a back-up tool and not a primary selection method.

4. **Selection Period.**

   a. **For the administrator only:**

      i. **After the discussion about the length of the selection period at the last workshop, does BHNG intend to change the length of the selection period in Nebraska in coming years? Is BHNG open to lengthening the selection period in Nebraska if Das are no longer used for residential customers?**

ii. **If the selection period is extended, would the administrative burden of confirming customer selections be lessened?**

b. **If any supplier has changed its opinion of the length of selection period since the previous workshop, how do you now see it and what made you change your view?**

Customer feedback during the Selection Period and from the ACE Board of Directors reinforces ACE's stance that two weeks is adequate. Increasing it only extends the mass marketing periods of seven suppliers which is generally perceived as intrusive and sometimes causes customers to mistrust the program since scamming is so prevalent in society in general. It also drives up the cost of doing business, including staffing and tech support costs, which is not in customers' best interest. If the Selection Period is expanded to a longer period, ACE would respectfully ask BHE to consider the elimination of outbound telemarketing, especially to residential customers; more severely limit the number of marketing attempts that can be made to customers; and monitor and enforce the marketing rules. The current level of marketing intensity could cast aspersions on the valuable choice the Program provides to customers.

5. **Dispute Resolutions.**

a. **<u>For the Administrator only:</u>**

i. **What remedies and sanctions are currently available if it is determined that a supplier has violated the Code of Conduct?**

ii. **Do you have a standard policy of remedies and sanctions for response to violations of the Code of Conduct? If so, does the policy include increased penalties for repeat offenders and/or severe offenses?**

b. **Is a standard policy of sanctions and remedies for violations of the Code of Conduct desirable? Why or why not?**

A better-defined policy of remedies and sanctions for violations of the Code of Conduct and marketing rules would be in the best interest of customers, all suppliers and the Choice Gas

Administrator. Without defined consequences, suppliers can potentially “push the boundaries” of program rules and gain an unequal competitive advantage over other suppliers.

c. **During the September 25 workshop, BHNG stated it would follow up with a CNGP who submitted a complaint after the complaint was resolved. Is that currently being done? If so, is it helpful? Is it sufficient? If not, how can it be improved?**

BHE was responsive to ACE regarding complaint resolution. It was helpful to know action was being taken and further activity monitored.

d. **Are the sanctions or remedies currently available effective? Are there other sanctions or remedies that should be available when violations occur?**

Because available remedies and sanctions are not formally listed and are generally unknown, ACE cannot comment as to their effectiveness. In response to a repeat violation that occurred during this year’s marketing period however, a supplier had marketing privileges revoked until the action could be corrected which seemed to be effective.

6. **Default pricing.**

a. **<u>Questions for Suppliers:</u>**

i. How do you determine the default rate for customers who do not make a selection? Does your methodology for determining the default rate vary from year to year?

In all rates, ACE must capture the cost of gas based on marketplace conditions including market price and risk premium, variable load requirements, potential tariff hikes, administrative costs, and the fees assigned by BHE including customer charges, pipeline allocation for capacity and fees to cover bad debt. All of these components also must be captured when setting default rates. However, the cost of gas can vary widely based on a dynamic natural gas market, since files for default customer volumes are not provided by BHE to suppliers until two weeks after the close of the selection period. The natural gas market can sometimes shift dramatically in that time period.

Additionally, final capacity allocation for all ACE customers is not received from BHE until default customers are assigned, which can often vary from historical allocations. Inherent within all rates, ACE must assume market risk in order to guarantee fixed rates at a set price with sometimes unpredictable customer loads. With over 90 percent of ACE customers on a fixed rate product, this can be significant.

As a not-for-profit supplier, ACE was founded 22 years ago with a core mission of promoting competition in the Choice Gas Program while being an advocate for customers. To that end, ACE attempts to provide as competitive rates as possible to all customer segments, including both active choosers and those who roll over, while covering all costs of doing business in order to remain in the program as an advocate for customers far into the future.

A variety of factors must be considered to determine appropriate default rates by pricing option. See 6.a.iii. Specific methodology cannot be provided as it is proprietary and confidential information.

ii. Using rates from the previous selections period, and assuming average usage based on class, what would the difference in the average monthly and annual bill be for:

1. **Residential customers that select the average fixed rate offered during the selection period, versus those that receive the default rate;**

   ACE sets default rates by Central and Western Region as costs vary between regions. Based on an average residential load profile of 800 therms a year, Central customers who chose saved approximately $128, and Western customers who chose saved approximately $137, compared to customers who did not make a selection.

2. **Small commercial customers that select the average fixed rate offered during the selection period, versus those that received the default rate; and**

Rates and load profiles vary widely so it is not possible to calculate a rate difference for small commercial customers.

3. **Large commercial customers that select the average fixed rate offered during the selection period, versus those that receive the default rate?**

Rates and load profiles vary widely so it is not possible to calculate a rate difference for large commercial customers.

iii. **Does each supplier have one default rate for every customer assigned to them, or is there more than one default rate used by any single supplier: is there more than one default rate offered within a class of customers?**

Under Choice Gas Program rules, suppliers are required to set a default rate for each type of pricing option. Customers roll over (default) to their previous supplier, on their previous pricing option, at a rate set by the supplier at the time of default. ACE sets rollover rates for customers on the following Pricing Options:

Guaranteed Fixed Rate
Guaranteed Market Index Rate
Guaranteed Blended Rate
Guaranteed Fixed Monthly Bill rate known as ACE WeatherShield™

ACE chooses to set default rates by Central and Western Region to align rates most closely with associated costs. Each customer group encompasses a broad array of usage profiles and this must be considered when establishing a standard default rate. ACE sets standard default rates for Fixed Rate per Therm and Market Index Rate per Therm customers in each region. ACE WeatherShield™ rates must be set individually based on specific customer profiles because the pricing features a guaranteed monthly rate covering all commodity-related costs, regardless of usage.

b. <u>**For all parties:**</u> **Should there be a limit on what customers who do not make a selection can be charged? If so, what types of limits would you suggest? If not, why not?**

In theory, establishing a limit on default rates would seem prudent. However, this is a difficult prospect since cost of gas is a large component of a rate and the entire selection period, from pre-enrollment until the time rollover rates are set, covers the span of five months. The market can change vastly in that time. This year, the NYMEX gas market price jumped significantly over that period. Since default customer volumes are not known until May, under different market conditions, it would be impossible to apply a percentage limit.

The Nebraska Choice Gas Program is designed on the principle of competitive tension which serves to naturally drives rates lower during the Selection Period. This was proven this year with seven suppliers currently vying for customers.

7. **Energy Options.**

   a. **How are transportation and capacity related costs currently allocated between customers? Is this allocation method appropriate?**

   ACE does not supply customers under the Energy Options program.

   b. **What are the benefits and detriments of a pro rata allocation of transportation costs?**

8. **Further Information.** Are there any additional documents, articles, and/or materials related to the topics outlined above that the Commission and other interested parties should consider in their review of the issues discussed above? If so, please provide an explanation and supporting documentation.

   ACE has no further information to submit at this time.