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234 South Canyon Rd.
Rapid City, SD 57702

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Ms. Kara von Bockern
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501-5070

Dear Ms. von Bockern:

I appreciate your courteous letter of January 12. Although I will look at the issue a bit further, you appear to be correct that time for any action on the dockets involved is past.

The real issue, unfortunately, very much remains: fixed service charges which affect hundreds of thousands in South Dakota every month, discriminate powerfully against those struggling to avoid eviction.

The fact that these charges are repetitive and continue means that the issue is very much alive and can be brought to the fore any time even a small group of consumers wish to bring it forward.

This practice increases the per unit cost of electricity and natural gas in proportion as the situation of its victims is desperate. My interest in the issue comes because I came frighteningly close to losing my home at a time of extreme difficulty associated with need to care for my elderly parent during her last illness, where two or three hundred dollars per year utility cost in fixed charges were nearly the "straw that broke the camel's back."

Inability to pay utility bills appears to be the second leading proximate cause of homelessness in the United States; and the posture of the PUC and the utilities companies in relation to the real effect of fixed charges is neither viable nor defensible, either morally or legally.

I follow each detail of your argument that the fixed charges are necessary to sustain particular utility companies' specific infrastructure costs. The principal difficulty is one you do not mention. I add in your defense that I could not believe my ears when one of the Commissioners, at the hearing in which I did participate, actually ridiculed my second mention of the fact that,

according the U.S. Supreme Court, public utilities are not entitled to impose fees or charges to defray particular elements of their service, nor particular costs. This is more or less because there is, in the billing structure of utilities, no column for “Credit to Consumer for Monopoly Privilege.” Much benefit that accrues to MDU and BHP by reason of the absence of competition is every bit as real as, and translates into dollar cost as readily as, the absence of a pipe carrying fuel oil to my house. This is not the language that the Supreme Court used, of course.

You have correctly referred me to the Orders in the case of the dockets in question in my recent email contact. I take the liberty of referring you to the transcript, which I know was prepared, for the citations. Or, if you agree that it may be expedient to courteously explore this area, I will be happy at your request to provide them.

Why should South Dakota and some other states cheerfully ignore settled law in this area? Do you really disagree that it is settled law?

In any case, may I ask whether, to your knowledge, either the legislature or the PUC has ever formally addressed this issue?

Or, to the best of your understanding, is it just that neither the PUC nor the companies have ever been challenged on this ground? In this case, why should PUC be so biased in the utility companies’ favor that there must be a challenge?

Surely, if the PUC has never seriously considered the fact that they have approved a practice which has been found unlawful, the best resolution would be for them to informally consider the matter and amend the practice, don’t you think?

Sincerely,

A handwritten signature in black ink, appearing to be 'John Reints', written in a cursive style.

John Reints