

Steve,

First, BHP submitted an affidavit indicating the plant is 99% complete and would be on-line by April 1 (<http://puc.sd.gov/commission/dockets/electric/2009/el09-018/030910.pdf>).

Second, you asked about what state law allows for interim rates. To get that answer, you need to read two statutes together. 49-34A-14 says the commission can suspend the implementation of a rate for up to 180 days. 49-34A-17 says after that time, any new rate the utility charges has to be subject to refund (up until twelve months after initial filing).

Here they are in their entirety:

49-34A-14. Suspension of proposed rate or practice pending hearing--Time. Pending a hearing pursuant to § 49-34A-13 and the decision thereon, the commission may, by order, suspend the operation of the proposed rate or practice. The suspension may not last longer than one hundred eighty days after the proposed rate or practice was filed.

49-34A-17. Implementation of proposed rate or practice--Accounts of customer payments--Refund of excess--Time limit. The public utility may implement the proposed rate or practice if:

- (1) The proposed rate or practice has not been suspended or is no longer subject to suspension;
- (2) The commission has not issued a final decision; and
- (3) Thirty days has passed from the date of filing.

In the case of a proposed increased rate, the commission may, by order, require the public utility to keep an accurate account in detail of all amounts received by reason of the increase, specifying by whom and in whose behalf the amounts are paid. Upon completion of the hearings and decision, the commission may by further order require the public utility to refund, with interest, to customers, the portion of the increased rates found to be unjust, unreasonable, or discriminatory. The refund shall be carried out as provided in §§ 49-34A-22 and 49-34A-23. If the commission does not issue a final decision within twelve months from the date the proposed rate or practice was filed, the commission may not require a refund of increased rates charged after the twelve months.

Thanks,  
Dusty

-----Original Message-----

From: STEVE & RITA [REDACTED]  
Sent: Friday, March 19, 2010 11:59 PM  
To: Johnson, Dustin (PUC)  
Subject: Re: Black Hills Power rate increase!

Thanks for your quick reply, but why can't the rate increase to put off until after the review is completed as you say. What LAW gives them the right to raise the rates this high without the review process being complete first. I don't believe I seen a rate being put into effect before the PLANT comes on LINE. Now we read rate increases of 20%, 26.6%, 36.4% for this same rate case.  
Again Thanks for your time in this matter.

Steve Hyk.

On Mar 19, 2010, at 1:50 PM, Dustin Johnson wrote:

Steve,

Thanks for taking the time to email.

First, I can absolutely assure you that the commission has not "sold [you] down the river." The commission hasn't made any final decision on Black Hills Power's request. How have we sold you down the river?

Second, you won't be charged for costs associated with facilities that aren't serving you and other Black Hills Power customers. South Dakota won't have to "pay for the whole ballpark." If portions of the plant have been sold to another company, that portion won't be included in your rates. Third, these rate cases are tremendously complex and take an incredible amount of time. I am unaware of any state in the country where the law indicates rate cases must be completed within six months. There are thousands and thousands of pages of evidence to review, hundreds of questions that need to be asked of Black Hills Power, and millions of dollars to be accounted for. That type of due diligence should not be rushed. We are going to subject Black Hills Power to all of the scrutiny their sizable request warrants (and that's a lot of scrutiny). We have six regulatory experts and two outside regulatory consulting firms working on this case, and they need to have enough time to prepare their case. Just think about how long most court cases and legal processes take. That's what this is -- an administrative law proceeding. There will be discovery, witnesses testifying under oath, cross-examination by attorneys, and evidence introduced into the record. All of that takes time. I suspect that the party most irritated by the Commission's methodical and thorough review is Black Hills Power. That is too bad, but I am not going to rush this process. The ratepayers deserve sufficient scrutiny of this filing.

Steve, I can promise you that everyone at the commission involved with this proceeding wants your electric rates to be as low as they reasonably can be to provide safe and reliable energy. None of us got into utility regulation to hurt our friends, family, and fellow South Dakotans. We are working hard and I believe the final outcome of this proceeding will absolutely serve the public interest.

Thanks,  
Dusty

Dustin "Dusty" Johnson  
Public Utilities Commission  
605-773-3201

-----Original Message-----

From: STEVE & RITA  
Sent: Thursday, March 18, 2010 11:01 PM  
To: Johnson, Dustin (PUC)  
Subject: RE: Black Hills Power rate increase!

Mr: Johnson, why is it that BHP get a 20% plus increase and than an article comes out that Wyo is buying 23% ownership in to the plant and also MDU CO is buying 25% for same plant. Why do the people in SD have to pay for the whole ballpark when you have two other owners just come out. I think you guys sold us down the river. Most of this power will be sold down stream to bigger markets for more money and we here in SD pay the bill. Please reply.

Thanks Steve Hyk.

PS: Why does it take 6 months for a decision on a rate case. What State Law covers this robbery to happen to people of SD. PSS: I am retired and on FFIXED INCOME, since my money went to bailout the Big Banks and WallStreet.