



Gary Hanson, Chairperson  
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## PUBLIC UTILITIES COMMISSION

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Duane Poppens  
[REDACTED]  
[REDACTED]

Dear Mr. Poppens:

Please forgive how formal my response is; however, this is a filed docket and that necessitates the formality. This is in response to your letter in today's mail regarding Xcel Energy's application to increase rates. Given your statements, I will explain how a rate case is processed.

When a utility files a rate case with the commission, we are obligated by law to thoroughly process the case. We cannot simply say no and reject it outright since we are required to investigate it and make a just and reasonable decision. This process can take almost a year to complete. Each commissioner, the commission's staff and expert consultants hired by staff review the entire case – also referred to as a docket – separately, along with any intervenors in the case. We will request and review additional data and information from the utility before a decision is rendered. All discussion involving commissioners on the case must be available to the public. The commission's work is now done electronically to be the most time and cost effective, and therefore, anyone can review the majority of the filings in the case online. Consumers can submit comments to the commission electronically and these are made public. Enclosed is a document which helps explain the rate case process.

My fellow commissioners and I are consumers too, and we understand how rate increases affect all of us. None of us want to raise rates. In fact, we hate to agree to any rate increase.

It is important to understand the reasons Xcel cited when filing this case, including investments in plant infrastructure and compliance with federal mandates. The commission is currently processing a Black Hills Power rate case and these needs have been stated as cause for that case also. Xcel relayed their need to file another rate case when their last case was processed during 2012 and 2013. The commissioners referenced this and the utility ultimately agreed to hold off on filing the case longer than planned.

In 2010 we began receiving numerous rate dockets from natural gas and electric utilities. Mandates from the federal Environmental Protection Agency continue to place greater costs on utilities, such as \$400 million-plus on the Big Stone power plant alone, and in several cases have forced the closure of power plants. We are seeing the effects of legislative requirements and EPA regulations on utility rates throughout the country. Utilities are also replacing aging power plants and infrastructure. You mention inflation and while that is a factor in these cases, there are many issues beyond that. These cost-causers affect all of our lives.

Xcel is a regulated utility, and thus, it has its rates set by the commission based on an authorized rate of return. Note that this is authorized but not guaranteed. The utility is not guaranteed to earn that rate of return. The rates are set based on a rate of return that is in turn based on utility debt and equity market rates as determined by present market conditions. In the past few years, the commission's approved rates of return have been the lowest in the nation for the electric sector.

The commission is required by law to allow rates based on a reasonable rate of return for the regulated utility sector. This is required by the statutes passed by the South Dakota Legislature, and has been upheld by multiple decisions of the South Dakota Supreme Court and the United States Supreme Court. The Supreme Court has ruled that it is unconstitutional according to the takings clause of the Constitution for the commission to set rates based on debt and equity values that are not within the current range of market rates for utility debt and equity securities.

The rates of regulated utilities – such as Xcel Energy, Black Hills Power, Montana-Dakota Utilities, Otter Tail Power, NorthWestern Energy and MidAmerican Energy that all serve South Dakota – are regulated. These utilities are in a captive rate situation. This means these utilities are not permitted to charge whatever rates management decides to charge, like other businesses. Because Xcel is a monopoly situation, there is no market to discipline prices as there is in unregulated business sectors. One effect of this is that regulated utility rates of return are almost always significantly lower than for unregulated business corporations.

A regulated utility may have a rate that is set based in part on current debt and equity return values, but that process also results in the utility not being able to earn the higher rates of return that unregulated businesses can and do charge. However, the utility's shareholders are entitled to earn some profit since that is why they invest their funds in the corporate entity that owns the regulated utility.

The laws over regulated utilities include what is known as ring-fencing. This separates the accounting and revenue of the regulated entity from the other owned entities within that larger corporate ownership structure. It essentially prevents an investor-owned utility of being stripped of its profits by shareholders. The purpose is to retain sufficient funds to operate the utility and reinvest in the system in order to provide safe, reliable service to the utility's customers. I authored and spearheaded the passage of the utility ring-fencing law in South Dakota.

Since this is an open case, your comment and my response will be filed in this docket. Anyone interested can follow the docket at [www.puc.sd.gov](http://www.puc.sd.gov) by clicking on Commission Actions, Commission Dockets, Electric Dockets, 2014 Electric Dockets, and scrolling down to EL14-058.

Thank you for sharing your concerns and giving me an opportunity to explain how a rate case is processed according to the law. I will always work to keep utility costs as low and affordable and reasonable as possible.

Sincerely,



Gary Hanson

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