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South Dakota

PUBLIC UTILITIES COMMISSION

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September 25, 2014

Todd Harter
[REDACTED]

Dear Mr. Harter:

This is in response to your comments regarding Black Hills Power's request filed with the commission to increase their electric rates.

The commission approved a 6.39 percent rate increase in electrical revenues for the utility in September 2013, resulting in an increase of 5.7 percent for the residential customer class. This was a result of BHP filing a rate increase request in December 2012 requesting a 9.94 percent increase (8.94 percent for the residential customer class). After significant study, the commission agreed with the settlement reached between BHP and commission staff. I encourage you to review the filings in this rate case online by going to www.puc.sd.gov and clicking on Commission Actions, Commission Dockets, Electric Dockets, 2012 Electric Dockets and scrolling down to docket EL12-061.

When a utility files a rate case with the commission, the commission is obligated by law to thoroughly process the case. Commissioners cannot simply say no and reject it outright since we are required to investigate it and make a just, reasonable decision. This process can take almost a year to complete. Each commissioner, the commission's staff and expert consultants hired by staff will 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. Additionally, we will hold a formal evidentiary hearing if necessary in order to obtain all information and allow intervenors the opportunity to full participate as well.

You mention that while BHP stock skyrockets, they are asking customers to pick up the tab for a new source of income and power plant. This stock you reference is actually owned by the corporate entity, Black Hills Corporation, and those shareholders own several business entities including the regulated entity, BHP. Adding the Cheyenne Prairie Generation Station as a new energy source is not a source of income for the BHP utility company. BHP is required by law to provide safe, reliable service to customers. The utility must ensure the plants it relies upon to generate capacity are sufficient to meet customer demand, while meeting new EPA requirements. BHP's profits do not take away the need for any rate increases. The laws governing regulated utilities include what is known as ring-fencing. This separates the accounting and revenue of the regulated entity, BHP, from the other owned entities within a larger corporate ownership structure, BHC. 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.

All discussion involving commissioners regarding 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.

It is important to understand the reasons BHP cited when filing this case, which includes investments in plant infrastructure and compliance with federal mandates in addition to the storm recovery costs you mention. The commission is currently processing an Xcel Energy electric rate case and a MidAmerican Energy electric rate case as well as natural gas rate case. The first two costs have been stated as causes for those cases also.

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. These cost-causers affect all of our lives.

BHP is a regulated utility and as such, its rates are set by the commission based on an authorized rate of return. Authorized does not mean guaranteed. The utility is not guaranteed to earn that ROR. The rates are set based on a ROR established by utility debt and equity market rates determined by present market conditions. In the past several years, the commission's approved ROR have been the lowest in the nation for the electric sector.

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 a higher ROR that unregulated businesses can and do charge.

It is also important to understand that a regulated utility cannot raise funds or borrow funds to build and maintain infrastructure and comply with federal mandates unless it can pay some dividends to shareholders and pay off their debts.

The commission is required by law to allow rates based on a reasonable ROR 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.

In South Dakota the rates of BHP, Xcel Energy, Montana-Dakota Utilities, Otter Tail Power, NorthWestern Energy and MidAmerican Energy are regulated. These utilities are in a captive rate situation. They are not permitted to charge whatever rates management decides to charge as other businesses do. Because BHP is a monopoly situation, there is no market to discipline prices as there is in largely unregulated business sectors. One effect of regulation in South Dakota is that a regulated utility's ROR is almost always significantly lower than for unregulated business corporations.

This case is still being processed by the commission. Requests for information beyond what is part of the official application continue to be made and these requests require the company to respond with additional data and spreadsheets. It is a complex, lengthy process.

To help you better understand the processing of rate increase requests, a document titled Electric Rate Increase Requests Info Guide that is linked to the commission's website is enclosed.

My fellow commissioners and I are consumers too. We have family of several generations who are affected by utility costs and we understand how rate increases affect all of us. We have a strong desire to keep rates down and to protect the citizens against increases. None of us want to raise rates. In fact, we hate to agree to any rate increase.

Thank you for writing to share your concerns. Your comments will be filed in the BHP rate case, docket EL14-026. Given your interest, I encourage you and the others who sent comments with you to follow along as the case is processed.

Sincerely,

A handwritten signature in cursive script that reads "Gary Hanson". The signature is written in black ink and is positioned above the printed name.

Gary Hanson