

From: PUC

Sent: Friday, April 11, 2014 1:04 PM

To: [REDACTED]

Subject: Black Hills Power Concerns

Lt. Col. George A. Larson, USAF (Ret.)

[REDACTED]

Dear Lt. Col. Larson (Ret.):

Thank you for contacting the commission to relay your concerns about Black Hills Power.

You indicate in your letter that BHP should have planned for the unforeseen expenses of storm Atlas by purchasing insurance coverage or insuring itself so when the storm occurred, there would have been monies for repairs versus asking consumers to fund them.

Investor-owned utilities such as BHP must operate according to specific federal and state laws since they are considered monopolies. These laws also provide for specific regulatory authority by the commission within legal boundaries. BHP is owned by Black Hills Corporation, a separate and larger entity, and its shareholders. BHC's shareholders are allowed to earn a profit from their shares in the corporation. Those shareholders would obviously not invest their funds in BHC were they not allowed a return on their investment. The law creates what is commonly referred to as ring-fencing between the various entities owned by BHC and the regulated utility subsidiary portion of their portfolio. The reason for this is so that a corporation cannot bleed profits from a utility in their portfolio, i.e. shaving utility costs leading to unsafe, unreliable electrical service. Both federal and state laws stand in the way of allowing an investor-owned utility to operate in this manner.

Many individuals confuse the legal rights and obligations of BHC and its regulated utility subsidiary, BHP.

The law allows for BHP to pass along the costs for generation plant replacement and improvements from the rates it charges customers. In this rate increase filing, BHP asserts this is the largest portion of expense sought from this increase. A lesser portion is for expenses from storm Atlas. Yes, these are costs of doing business, but they are also costs that a regulated utility is allowed by law to recoup through rates charged to customers if the commission determines the costs are justified. If BHP did have insurance to cover all the storm costs, that insurance cost would also be allowed to be borne by customers. Either way, the utility's ratepayers are considered appropriate payers of this expense by law. Again, the commission must regulate the utility within the boundaries of federal and state laws. If the law does not require BHP to carry insurance for storms, then the commission cannot insist that it do so. Mr. Crocker's statement regarding the analysis that paying for the cost of the storm is less expensive than paying for insurance may well be accurate. However, the

commission will analyze this issue to ensure that BHP's decision to not carry insurance to cover the cost of a major disaster was prudent and in the best interest of its customers. Much more investigation will be done on the BHP case as it is processed – which could take a year to be completed – therefore, I cannot tell you exactly what the outcome of this will be.

You also relay frustration with BHP's tree clean-up. The utility has been and continues on an accelerated tree trimming cycle. Because leaves were still on trees when storm Atlas struck, utility officials relayed that heavy moisture from the snow stayed on tree limbs causing significant damage. A utility's tree trimming activities are examined during a rate increase application's review. Utility customers pay for tree trimming and this expense involves a balance of risk versus cost, much like insurance coverage decisions.

You reference the lack of fiscal responsibility displayed by BHP. Keep in mind that the utility is likely not the only one in the state filing a rate case in 2014. Costs are increasing for numerous investor-owned, cooperative and municipal utilities across the United States and in South Dakota, as we are hearing in the news every day.

The commission is seeing a cycle of utility rate increase filings. Three rate dockets were filed in 2013, eight in 2012, three in 2011, and four in 2010. Between 1984 and 2009, the commission dealt with one, two or no such cases with the exceptions of three in 2007 and four in 1995. It seems as though we are in a rate case cycle similar to the period from 1975 to 1983 when the commission processed four to nine rate cases per year.

What is the cause for these recent cases? The utilities' justification has included plant replacement costs, new EPA regulations, new transmission investments, and storm recovery costs. Recent laws passed by South Dakota's Legislature allowed for: transmission cost riders beginning in 2006; environmental cost riders beginning in 2007; and rate stability or phase-in rate increases beginning in 2012. These laws allow utilities to file rate increases based on these specific investment justifications, and similar laws have been passed in numerous states primarily in response to new federal laws.

I understand rate increases are difficult to handle, especially for individuals and businesses with fixed incomes or limited means to raise revenue. None of the commissioners or staff members wish to increase utility rates for South Dakotans. We are consumers as well and understand how increased costs affect all. We take our jobs seriously as we review rate filings and process them according to law.

I appreciate receiving your comments and encourage you to follow this BHP rate case. You can do so at www.puc.sd.gov. Click on Commission Actions, Commission Dockets, Electric Dockets, and 2014, then scroll down the list of electric dockets. Your comments will be added to EL14-026: <http://www.puc.sd.gov/Dockets/Electric/2014/EL14-06.aspx>.

Sincerely,

Gary Hanson, Chairman
South Dakota Public Utilities Commission