

From: PUC

Sent: Wednesday, October 01, 2014 9:03 AM

To: [REDACTED]

Subject: BHP Rate Case, EL14-026

Ms. Mutcher:

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 BHP 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, EL12-061:

<http://www.puc.sd.gov/Dockets/Electric/2012/el12-061.aspx>

When a utility files a rate case with the commission, the commissioners and staff are obligated by law to thoroughly process the case. We cannot simply reject it outright since we are required to thoroughly investigate 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 or 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.

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 federal Environmental Protection Agency 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 the larger corporate ownership structure, Black Hills Corporation. It essentially prevents an investor-owned utility – in this case, BHP – of being stripped of its profits by shareholders, in this case, BHC's 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 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, compliance with federal mandates, and storm recovery costs. The commission is currently processing an Xcel Energy electric rate case, a MidAmerican Energy electric rate case as well as a MidAmerican natural gas rate case. The first two cost-causers have been stated by the utilities for those three cases also.

In 2010 we began receiving numerous rate dockets from natural gas and electric utilities. Mandates from the EPA 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 not only regulated utilities such as BHP, but also rural electric cooperatives and municipal electric systems. Each differs as to generation and distribution systems and the age of these and thus, necessary replacement and maintenance timeframes. However, all must manage such costs to support their systems. These cost-causers affect all of our lives.

As a regulated utility, BHP's 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.

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 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, 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.

To help you better understand the processing of rate increase requests, a document titled Electric Rate Increase Requests Info Guide is linked to the commission's home page at www.puc.sd.gov.

My fellow commissioners and I are consumers too. We have family of several generations 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 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: <http://www.puc.sd.gov/Dockets/Electric/2014/EL14-026.aspx> Given your interest, I encourage you to follow along as the case is processed.

Gary Hanson, Chairperson
South Dakota Public Utilities Commission
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