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Cc: Hanson, Gary (PUC) <Gary.Hanson@state.sd.us>

Subject: Potential Reconsideration of Docket EL21-022

This is a communication in regard to Docket EL21-022

The decision that our commission made in docket EL21-022 on August 19, 2021 was very possibly the correct decision; however, I am uncomfortable with the way in which the decision was made.

I believed the process was legally correct at the time of the decision; however, I have significant doubts as to the appropriateness of the process after listening to the legal arguments expressed during the Public Comment presentations at the end of the meeting. The PUC has a reputation of openness, transparency, and fairness. I am concerned that the decision in docket EL21-022 was transparent but not open nor fair to all those it affected. I do not wish to establish this process as a precedent unless there is no alternative for our Declaratory Rulings. I am concerned as to whether it is actually a legitimate process.

For that reason I wish to have PUC staff prepare a docket regarding the process for Declaratory Rulings. Within the examination of the process I will ask for written arguments and oral testimony from interested parties.

It is my understanding that the PUC is required to make its decision within a 30 day period on Declaratory Rulings. If this time constraint is correct, it may require having the decision in EL21-022 either stayed or denied until we can examine our declaratory ruling process. The reasoning for reconsideration is also a result of the arguments presented during Public Comment in which information was provided that created doubt as to the correctness of the ruling. That information was not allowed to be presented to the commission during the hearing and the accuracy of the information could not be weighed nor considered. If we approached and concluded the processing of Docket21-022 incorrectly then we should reconsider and develop it correctly. In this event I am asking that a motion be placed on our next agenda for the commission to reconsider our decision.

Gary Hanson
South Dakota PUC Commissioner