

From: PUC
Sent: Friday, July 28, 2023 11:17 AM
To: [REDACTED]
Subject: EL23-016

Mr. Stunes,

This is response to your July 27, 2023 email regarding NorthWestern Energy's rate increase request that the company filed on June 15, 2023. This is commission docket [EL23-016](#), and is currently being reviewed by commission analysts and a commission attorney. Many rounds of discovery, which are specific questions about the documents NWE filed with its application, will be asked by this staff team and their expert witnesses, and the answers provided by NWE will be analyzed. This group of staff with experts is a formal party to the docket, separate from my fellow commissioners and me and the three staff advisors that provide counsel to commissioners on dockets.

Rate cases such as this require six months to one-year before the commission and separate staff team with experts have fully reviewed the case as presented by the utility with analysis provided by the staff team. This analysis includes multiple rounds of discovery asked of utility officials. Once this in-depth review process is completed, my fellow commissioners and I will publicly ask further questions and discuss the details of the case and finally, each commissioner will vote on whether to deny the increase or reduce the increase requested based on the evidence presented to us.

This [Electric Rate Increase Request Information Guide](#) posted online helps explain the commission's processing of a rate case such as this. See key excerpts below.

This guide is intended to offer a simple overview of the Public Utilities Commission's process in considering a rate increase request from an electric service provider within its jurisdiction. This guide is informational and does not discuss all situations, variations and exceptions of the rate case process and proceedings of the PUC. See South Dakota Codified Law 49-34A for additional information, on the Internet at www.sdlegislature.gov/Statutes/Codified_Laws.

Rate Case Process

When an investor-owned electric utility wishes to modify its rates, it must seek permission from the PUC to do so. The company begins the process by filing an application with the PUC that states the proposed rate of increase for each of its

customer classes – residential, commercial and industrial, for example – and the rationale for the requested increase. The PUC has six months to investigate and make a decision about a rate request before the utility may put interim rates into effect, subject to refund depending on the PUC's decision.

PUC Authority

The South Dakota Legislature gave the PUC authority to ensure utility companies in South Dakota provide safe and reliable service at fair and reasonable rates. In considering a rate case, the commission weighs the public's need for adequate, efficient and reasonable service and the need for the utility to collect revenues to enable it to meet its total current cost of furnishing such service and the opportunity to earn a fair and reasonable return. The commission determines these factors based on definitions, standards and references specified in South Dakota Codified Law. In rendering its decision, the commission may approve, deny or approve with modifications the proposed rate increase as the commission finds appropriate and legally within its jurisdiction. The decision of the commission can be appealed to the circuit court and, ultimately, to the South Dakota Supreme Court. The commission strives to issue a reasoned decision and modifications, where appropriate, that uphold the law and discourage a potentially expensive and lengthy appeal process.

Given your interest in the docket, I encourage you to read through the documents posted and follow along as more information is added.

Your message referenced home-installed solar energy systems and the reimbursement rate for these offered by NWE in contrast to Minnesota. I cannot speak to the Minnesota Public Utilities Commission's or the Minnesota State Legislature's decisions or authority, but you can learn more about South Dakota's laws regarding solar energy by referencing the information available on our website under the [Energy](#) and [Solar Energy](#) sections. See excerpts below.

What incentives are currently offered for solar in South Dakota?

Federal Tax Credit: *A taxpayer may claim a credit of 26 percent of qualifying upfront capital costs for a solar energy system.*

This incentive applies to the installation of both solar water heaters and solar panels.

South Dakota property tax credit: The first \$50,000 or 70 percent of the assessed value of solar energy systems (less than 5 MWs), whichever is greater, is exempt from the real property tax (SDCL §§ 10-4-42 to 10-4-45).

Why doesn't South Dakota have net metering? What will I get paid from my utility for my excess generation?

Net metering is a policy in which a utility must purchase power generated by its customers at the same retail price it sells electricity to the customer. Typically used as an incentive for customers who install renewable energy systems like solar, net metering was first considered as a result of the Public Utility Regulatory Policies Act of 1978. At the time, South Dakota policymakers debated and chose not to implement it. Having considered this on numerous occasions, since then, the state legislature concluded mandatory net metering is not of the public interest.

Net metering hasn't been adopted for several reasons. First, the utility would be forced to pay the generator an above market cost of generation. Further, the utility would not be able to schedule the generation of electricity and it would be worth less than electricity they are already buying for a lower price.

Second, retail electricity rates are based on the variable cost of energy generation and a portion of the fixed costs of generation, distribution and transmission facilities. If utilities must pay above market rates for substandard power, rates will eventually have to rise to cover increased expenses. In addition, net metered customers don't pay their fair share of the utility's fixed costs and those costs are shifted to the utility's other customers causing their rates to increase. Increased rates will have the largest effect on low income customers, who couldn't afford the upfront costs of renewable energy systems in the first place.

Small generators have the opportunity to sell power to a utility without net metering. The purchase price the utility pays must reflect the value of generation and be similar to the utility's wholesale cost of power. It doesn't include costs of transmission, distribution and overhead, as well as other costs of providing electrical service that are included in net-metered rates.

All electric utilities regulated by the PUC are obligated to interconnect with and purchase power from small solar facilities if the generator desires and agrees to the terms. For solar facilities with a capacity less than 100 kW, the rates utilities

pay for the power must be filed with and approved by the PUC. This transparency allows producers to compare rates and make informed decisions regarding the economics of a small renewable power facility.

My fellow commissioners and I will make a determination on the rate increase request after reviewing all the facts presented by NWE and the PUC staff team. Our decision must be within the legal jurisdiction provided to the commission by the South Dakota Legislature, and a decision we believe will be upheld should it be appealed to circuit court. Since commissioners have a decision-making role in docket matters, any communication with us about an open or imminent docket must be done in an open forum, such as a public meeting or hearing, with notice given to all parties or available via the docket. Thus, your email and my response will be posted under Comments and Responses in the docket.

Thank you for writing to share your concerns and allow me to explain the commission's processing of a rate increase request such as this.

Kristie Fiegen, Chairperson
South Dakota Public Utilities Commission
PUC.sd.gov