

# South Dakota Public Utilities Commission Information Guide to Electric Rate Increase Requests

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](http://www.sdlegislature.gov/Statutes/Codified_Laws).

## Electric Utilities in South Dakota

There are six investor-owned utility companies that provide electric service to specific geographic areas in South Dakota. These companies are owned by their investors and are managed as private enterprises. The PUC has regulatory authority, including ratemaking authority, over these investor-owned utilities: Black Hills Energy, MidAmerican Energy Co., Montana-Dakota Utilities Co., NorthWestern Energy, Otter Tail Power Co. and Xcel Energy.

The PUC does not have ratemaking authority over electric cooperatives or municipal electric organizations. Each electric co-op is governed by a board of directors, elected by its membership. Municipal electric organizations are managed by the local government entity. The leadership of each of these groups is responsible for setting rates paid by its electric customers.

## 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.

## PUC Staff Role

Members of the PUC staff assigned to work on a rate case typically include one attorney and several analysts. Staff attorneys have educational and practical experience in administrative law, business management principles and trial procedure. Staff analysts have expertise in accounting, economics, research and engineering. The staff conducts a comprehensive analysis of the company's request and gathers additional information from the company, intervenors and outside experts as necessary. Company operating expenses, employee benefits, executive compensation, corporate advertising, and the cost of generation and transmission facilities are among the many facets of the rate case the staff examines. In addition to reviewing the data and evidence submitted by the applicant and intervenors, PUC staff request and analyze opinions from experts and question the parties. The staff considers the information relative to state laws and rules and presents recommendations to the Public Utilities Commissioners.

## Public Involvement

South Dakotans have a variety of ways to stay informed and involved. Read more on back.

**Review the electronic docket.** A docket is the continually updated collection of documents filed with the commission for a particular case. Dockets are accessible under the Commission Actions tab on the PUC website, [www.puc.sd.gov](http://www.puc.sd.gov). Dockets are labeled to correspond with their type and filing date. For example, Black Hills Energy's rate request docket is EL21-011; EL for electric, 21 for 2021 and 011 to indicate it was the 11<sup>th</sup> electric docket filed with the commission in 2021.

**Submit comments.** Members of the public are encouraged to submit written comments about an active rate case to the PUC. These ***informal*** public comments are reviewed and considered by the PUC commissioners and staff. Comments should include the docket number or name of the company proposing the rate increase, commenter's full name, mailing address, e-mail address and phone number. These comments should be emailed to [puc@state.sd.us](mailto:puc@state.sd.us) or mailed or hand-delivered to PUC, 500 E. Capitol Ave., Pierre, SD 57501. Comments are posted in the "Comments" section of the docket within a reasonable time after having been received. The commenter's name, city and state will be posted along with their comment. Comments received from businesses, organizations or other commercial entities (on letterhead, for example) will include the full contact information for such.

Please follow these guidelines when submitting written comments to the PUC:

- For comments sent by email, the maximum file size is 10 MB. If you have questions, please contact South Dakota PUC staff at 605-773-3201 (Monday – Friday, 8 a.m. – 5 p.m. Central Time).
- For comments sent by U.S. mail or hand delivered, no more than twenty (20) 8.5" x 11" pages, including attachments and support materials, should be submitted with a comment. Sheets with printing on both sides are counted as two pages.
- A reference document, article or other attachment not written by the person commenting should clearly identify the source of the content. The inclusion of any copyrighted material without accompanying proof of the commenter's explicit right to redistribute that material will result in the material being rejected.

- In instances where individual comments are deemed to be a duplicate or near duplicate copies of a mass message campaign, the PUC will post only a representative sample and list the name, city and state of the commenter.
- Comments containing threatening language or profanity will be rejected.
- Multimedia submissions such as audio and video files will not be accepted as written comments.
- Electronic links will not be accepted.

**Become an intervenor.** Individuals who wish to be ***formal*** parties in a rate case may apply to the commission for intervenor status. Intervention deadline is clearly indicated within the docket. Intervention is appropriate for people who intend to actively participate in the case through legal motions, discovery (requests for facts or documents), the written preparation and presentation of actual evidence, and in-person participation in a formal hearing. Intervenors are legally obligated to respond to discovery from other parties and to submit to cross-examination at a formal hearing. Individuals seeking only to follow the progress of a rate case or to offer comments for the PUC's consideration need not become intervenors.

**Communicate on record.** Verbal communication between a commissioner and a person with an interest in a matter before the commission that does not occur in a public forum or as part of the official record should be avoided. Those who communicate in writing with a commissioner about an open or imminent docket matter should understand that their comments will become part of the official record and subject to review by all parties and the public. Likewise, comments made at a PUC public proceeding or submitted to the commission relative to a docket matter become part of the record, open to review by all parties and the public. Because commissioners have a decision-making role in docket matters, any discussion with a commissioner about an open or imminent docket must take place in an open forum, such as a public meeting, with notice given to all parties.

**South Dakota Public Utilities Commission**  
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