

Minnesota Attorney General's Office Fact Sheet

Proposed Amendments to Minnesota's Public Utility Interim Rate Provision

The Problem

Costs associated with utility service--both electricity and natural gas--are major expenses in many Minnesotans' budgets. In recent years the costs associated with these essential utility services have continued to climb. In fact, utilities operating in this state have made eight requests for rate increases since June of 2008. Two utilities made requests for back-to-back increases in 2008 and 2009. Most Minnesotans' incomes are not increasing, making it particularly difficult to absorb energy rate increases.

The Minnesota Legislature has determined that public utility ratepayers are entitled to protection from the imposition of unreasonable utility rates. When a public utility requests an increase to its utility rates, Minn. Stat. § 216B.16 provides that the utility has the burden to demonstrate that its requested rate increase is just and reasonable. Yet the same statute compels the Public Utilities Commission to impose "interim rate" increases--"ex parte" without a hearing--within 60 days of a public utility's initial filing. Ratepayers are saddled with these interim rate increases approximately eight months before the Public Utilities Commission has ultimately judged whether the petitioning utility's proposed rates are just and reasonable.

The Solution

Many states protect citizens from unreasonable interim rate increases. For example, the states of Alaska, Indiana, Missouri, New Jersey, New York, Ohio, Tennessee, Texas, Utah, Florida, Hawaii, Arizona, and the District of Columbia provide that interim rate increases should be the exception, not the rule. Interim rate increases should be the exception and not the rule under Minnesota law. Utilities seeking a rate increase should demonstrate that an immediate and compelling need exists for interim rate relief that makes it unreasonable to await the normal regulatory process created to ensure that ratepayers are protected from unreasonable utility rates. Such a showing should be made before ratepayers are forced to adjust their already-strapped budgets to accommodate untested interim rate increases. The amendments proposed in this bill recognize that when a utility seeks to increase rates, the public is entitled to full protection throughout the entire ratemaking process.

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Public Utility Employee Expense Transparency Requirement

The Problem

Under Minnesota law, a utility has the burden to prove that a rate increase is just and reasonable. In recent years, however, numerous examples of extravagant expenses have been uncovered that were part of utilities' rate increase requests. Recent examples include expenses related to Board of Directors' retreats at lavish resorts, international travel with overnight stays at luxurious accommodations, tickets to numerous entertainment events including concerts and sporting events, golf outings, memberships to exclusive dining clubs, extravagant meals, limousine transportation services, private airplane travel, personal gifts and spa treatments, to name a few. In a tough economy, where many ordinary families are struggling financially, it is difficult for a utility to claim that such expenses are "just" or "reasonable," such that they should be charged to ratepayers. Yet, when such expenses are included in a complex rate filing, they may go undetected by regulators. Indeed, under current rate change filing requirements, parties reviewing the merits of a rate increase petition must conduct an extensive, labor-intensive effort to extract and identify all expenses embedded in the request to determine which, if any, expenses are appropriate for recovery from ratepayers.

The Solution

If a public utility seeks to include travel, entertainment, and related employee expenses in its rate filing, these expenses should be more transparent to the Public Utilities Commission, the public, and interested parties reviewing a rate increase request. The law requires a utility seeking a rate increase to prove that the increase is just and reasonable. The utility should also be required to affirmatively disclose in a rate increase request filing all travel, entertainment, and related employee expenses that it relied on to support its proposed rate increase request. Such a filing requirement affirmatively places the burden on the utility to disclose all employee-related expenses and identify which expenses it believes are appropriate for recovery in rates. This disclosure requirement will add more transparency to the complex and cumbersome ratemaking process and assist the Public Utilities Commission and regulators in ensuring that ratepayers are responsible for funding only reasonable and necessary employee expenses.