

Regulation by the Minnesota Public Utilities Commission Questions and Answers with LeRoy Koppendray, former MPUC Chair

Question: Which cooperatives in Minnesota are regulated by the Minnesota Public Utilities Commission?

Answer: There is only one co-op regulated at the present time, and that's Dakota Electric in Farmington, Minnesota. We call theirs basically a light form of regulation.

Question: What does a light form of regulation mean, and why was the Public Utilities Commission formed?

Answer: The co-op that's being regulated, Dakota Electric, doesn't have a conflict between the shareholder and the ratepayer because the shareholders and the ratepayers are the same individual. *(Background: Co-ops are member-owned by those they serve with electricity. Members are always ratepayers. Investor-owned utilities or IOUs are shareholder-owned by those who buy shares in the company through public trading among investors. Shareholders are not always ratepayers.)* All investor-owned utilities are regulated by the MPUC.

The Public Utilities Commission was really set up to regulate only investor-owned utilities because the PUC wanted to make sure that the ratepayers weren't being over charged so that the company could pay their shareholders more and have more attractive shares to offer buyers-investors. Ratepayers of IOUs are assured that the shareholders aren't getting more profit than they should. This conflict doesn't exist in a member-owned co-op because co-ops are owned by the members they serve.

As a co-op member of East Central Energy in Braham, Minnesota, I would be personally concerned with the fact that the Public Utilities Commission is not answerable to the members of a co-op, and the co-op and its members are bound by the PUC's decision, whether they like it or not.

Question: While some members are upset about rates, what would you say are some of the external causes for rates to rise?

Answer: The major issues with rate increases, of course, are the environmental mandates that have been put on by the legislature and congress, and some of the new ones that they're both considering. This is causing rates to go up and will cause rates to go up quite dramatically in the future.

Question: Can the Minnesota Public Utilities Commission help lower electric utility rates for Lake Country Power members?

Answer: I've had a chance to just briefly look at the co-op's rates and compare between co-ops and the companies that the Public Utilities regulated while I was on the Public Utilities Commission, and no, I don't see where the Public Utilities Commission would lower any rates at this point. They just look at the rates to see if they're fair.

If Lake Country Power has a rate increase, the Board of Directors will have your administration put together a proposal. Administration will present it to the Board. The Board will have to do their job to make decisions. If regulated, you'd now have to take all of that work and go to the Public Utilities Commission, and they'll have to take that pile of paper and look at it. No one from the co-op is allowed to present the rate case to the Commissioners. Lake Country Power would have to hire a utility lawyer to present its case because the Commissioners only listen to utility lawyers from law firms that specialize in utility law. The Attorney General's Office and Department of Commerce are also involved in the rate case to present arguments. The co-op's CEO and Board of Directors would not be involved.

Question: The Public Utilities Commission does not get involved in ex-parte communications. Please explain.

Answer: If your co-op, for example, were regulated and the co-op had a rate case before the PUC, the Commissioners can't talk to co-op members about that case. Members cannot call the Commission to talk with them about the case either. This would be considered an ex-parte communication.

Even when Xcel Energy had a rate case and its customers wanted to communicate with the Commissioners about the utility, we as Commissioners had to forward or delete those e-mails because it was ex-parte communication. Letters were opened before reaching us. Commissioners can only get comments from the record or from people in the public meeting. Quite frankly, I've never liked this because as a Commissioner, you're sitting there kind of in a bubble making decisions and you can't talk to the people you're making decisions about. The system is designed this way so one person doesn't have advantage if they can make contact with the Commissioners, but another person is unable to make contact.

Question: What are your thoughts are on the regulatory oversight of cooperatives by the PUC?

Answer: You've got to remember that the Public Utilities Commission are just five people. Their staff works for them and works with the numbers that are given. We get a few weeks to go through a 20-inch stack of papers related to the rate case. After that, we deal with only the numbers that are given to us.

We don't come and look at how the company is operated or how many employees the company has or how the company is run. We just look at the numbers we're given, and we ask ourselves if the numbers for the rate case look reasonable. Working for us are lawyers and accountants, and they look at the numbers and also ask themselves if the numbers are reasonable. How do we know the numbers are reasonable? We do comparisons to other electric cooperatives.

Question: What makes cooperatives special?

Answer: The thing that you have going for you in a co-op, that I have going for me in my co-op, is I can talk to my board members. You can't talk to the Public Utilities Commissioners. So you're going to take all of that work and pass it off to somebody who is not elected, but is appointed by the Governor and who you really don't have any influence upon.

The utilities that I regulated, I always used my co-op as an example of how to better serve the customer. Co-ops have done a better job of offering services to the customers than what the large investor-owned utilities have done.

Mr. LeRoy Koppendraye was on the Public Utilities Commission from 1998 until 2008. He is a former Commissioner and Chair of the Minnesota Public Utilities Commission. Koppendraye is independent of Lake Country Power.