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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether Puget Sound Energy (PSE) is in compliance with Washington state laws and Washington Utilities and Transportation Commission (commission) rules generally, and Washington Administrative Codes 480-90-123(2) and 480-100-123(3), Refusal of Service, specifically.

Scope

The scope of the investigation includes PSE's general business practices as reflected in the commission's consumer complaints received during the months of June through December 2009, as well as data provided by PSE.

Authority

Staff undertakes this investigation pursuant to the authority granted by the Revised Code of Washington (RCW) 80.01.040, which directs the commission to regulate gas and electric companies in the public interest. In addition, RCW 80.04.070 grants the commission authority to conduct such an investigation.

Staff

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EXECUTIVE SUMMARY

Staff identified PSE for investigation based on a routine review of consumer complaints, which revealed multiple issues related to the company's application of the rule of prior obligation. Despite receiving extensive technical assistance in this area, PSE continues to demonstrate a fundamental misinterpretation of the rule and its application. Accordingly, staff concluded that a broader investigation was necessary to determine whether PSE consistently complies with laws and rules enforced by the commission.

An investigation into the business practices of PSE established that the company is in violation of commission rules as follows:

- WACs 480-90-123(2) and 480-100-123(3), Gas/Electric Refusal of Service
- WAC 480-100-108(2)(d), Application for Service
- WACs 480-90-173(3) and 480-100-173(3), Gas/Electric Company Responsible for Complaints and Disputes
- WAC 480-90-128(1), Disconnection of Service – Customer Directed
- WAC 480-90-128(9), Disconnection of Service – Remedy and Appeals

Recommendation

Staff reviewed consumer complaints filed with the commission between June and December 2009, as well as a random sampling of the data provided by the company for all service disconnections for both electric and natural gas customers between October 15 and 31, 2009. Staff recommends penalties as follows:

- For three violations of WAC 480-90-123(2) in two consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 11 violations of WAC 480-100-123(3) in ten consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 951 violations of WACs 480-90-123(2) and 480-100-123(3) in 26 of the accounts reviewed, staff recommends a penalty of \$100 for each violation.
- For four violations of WAC 480-100-108(2)(d) in four consumer complaints, staff recommends a penalty of \$100 for each violation.
- For six violations of WAC 480-90-128(1) in two consumer complaints, staff recommends a penalty of \$100 for each violation.
- For two violations of WAC 480-90-128(9) in two consumer complaints, staff recommends a penalty of \$100 for each violation.
- For ten violations of WAC 480-90-173(3)(a) in four consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 12 violations of WAC 480-100-173(3)(a) in six consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 11 violations of WAC 480-90-173(3)(c) in six consumer complaints, staff recommends a penalty of \$100 for each violation.

- For 33 violations of WAC 480-100-173(3)(c) in three consumer complaints, staff recommends a penalty of \$100 for each violation.

Staff recommends a penalty of \$100 for each of the 1,043 violations cited in this report, for a total penalty of \$104,300.

Staff will conduct a follow-up investigation.

BACKGROUND

This investigation was prompted by a Consumer Protection routine audit of complaints. Consumer Protection staff noted that many of the complaints received regarding the disconnection of electric and gas services for nonpayment involved the company's misapplication of the rule of prior obligation. Staff conducted a review of PSE's overall business practices for the period of June through December 2009. Staff also obtained data from the company for 847 accounts that were disconnected for nonpayment between October 15 and 31, 2009, and reviewed 179 of those accounts in detail.

Previous Technical Assistance

On May 30, 1995, e-mail correspondence between PSE and staff clarified how the rule of prior obligation must be applied. Staff instructed the company as follows: "The prior [obligation] will be the amount that has already been billed at disconnect rather than the amount that has gone through the meter and, Puget agrees to make sure its customers understand the options available."¹

This information was provided to PSE again in mid-2001, June 2002 and October 2006.

Recent Technical Assistance

On March 31, 2009, commission staff met with PSE managers to review the consumer rules of the Washington Administrative Code (WAC). Following the meeting, commission staff reviewed PSE training materials regarding residential disconnections for nonpayment. Staff made recommendations for changes, and the materials were resubmitted to staff for further review on April 14, 2009. Staff approved final training materials, including an employee checklist for processing accounts as prior obligation.

On April 8, 2009, the commission sent a letter to all regulated energy companies regarding application of the rule of prior obligation.² The letter stated, in part:

At the time of disconnection, the customer has two options for restoring service:

- 1) The customer must either pay the full amount owing shown on the disconnection notice, plus any reconnection fee, if the company is unwilling to bill that fee; or,*
- 2) If the customer is unable to pay the full amount for which he or she was disconnected, the company must advise the customer of his or her right to instead pay a new deposit, plus reconnection fee, if the company is unwilling to bill that fee. If the customer is unable to pay the full deposit amount the company must offer deposit arrangements in accordance with WAC 480-90-113(4) for gas companies and WAC 480-100-113(4) for electric companies if no more than half to be paid at the time of restoral, and the other half spread equally over the next two months. The company may spread the arrangements over more months, but not less.*

¹ A copy of the e-mail is attached as Appendix A.

² A copy of the letter is attached as Appendix B.

On May 12, 2009, staff met with PSE managers to review the prior obligation rule and address specific questions posed by PSE. That same day, staff attended training provided to more than 200 PSE employees regarding residential disconnections for nonpayment and the application of prior obligation to customer accounts.

On May 19, 2009, PSE managers sent an e-mail to staff requesting clarification regarding the process for assessing the amount of prior obligation at the time service is disconnected. The e-mail referenced a complaint in which a customer was disconnected for nonpayment of \$500, with a total past due amount of \$2000. PSE's question was whether the prior obligation amount was \$500 or \$2000. Staff clarified that in this scenario, the prior obligation amount is the amount that has been billed at the time of disconnection, or \$2000.³

In July 2009, technical assistance was provided for complaint number 106941. A customer was disconnected at two locations for nonpayment, but only ordered reconnection at one location. PSE transferred the balance from the closed account to the current account at the location where service had been restored, and threatened to disconnect service for nonpayment of the balance on the closed account. PSE responded to the complaint that the balance from the location that had not been reconnected could not be "include[d] ... as part of her prior obligation because it does not meet the criteria." This was based on the company's belief that the rule required a reconnection to trigger the rule of prior obligation. Staff responded that "according to the rule this is prior obligation. The rule does not state that a reconnect has to be ordered. Prior obligation is the amount billed at the time of disconnect that has not been paid excluding the deposit." PSE then processed the account accordingly.⁴

In December 2009, however, PSE responded to complaint 107889 that "the account was not processed prior in July since there was no reconnect." Once again, payments were misapplied (in this case, pledge funds) to a customer's prior obligation because of PSE's position that a reconnection of service is necessary to trigger the application of the prior obligation rule.⁵

In February 2010, PSE responded to complaint 107433 in which an account was not properly processed as a prior obligation with the following explanation: "Prior is only processed once payment has been made to restore service, since they have not made payment to restore service yet, we would not process a prior at this time. It's a closed account until that time." Despite receiving technical assistance for this same issue twice before, PSE continued to argue with staff that the company, rather than commission rules, dictated when the rule of prior obligation applied.⁶

³ A copy of the e-mail is attached as Appendix C.

⁴ A copy of complaint 106941 is included in Appendix D.

⁵ A copy of complaint 107889 is included in Appendix D.

⁶ A copy of complaint 107433 is included in Appendix D.

PRIOR OBLIGATION INVESTIGATION

Consumer Complaints

A review of complaints filed between June and December 2009 demonstrated that PSE has a pattern of misapplying the rule of prior obligation, despite the fact that the company has received extensive technical assistance in this area.

WACs 480-90-123(2) and 480-100-123(3) provide as follows:

A [gas or electric] utility may not refuse to provide new or additional service to a residential applicant or residential customer who has a prior obligation. A prior obligation is the dollar amount, excluding deposit amounts owed, the utility has billed to the customer and for which the utility has not received payment at the time the service has been disconnected for nonpayment. The utility must provide service once the customer or applicant has paid all appropriate deposit and reconnection fees. This subsection does not apply to customers that have been disconnected for failure to honor the terms of a winter low-income payment program.

Staff found 14 violations of WAC 480-90-123(2) or 480-100-123(3) in 12 commission referred consumer complaints filed between June and December 2009.⁷ The findings are as follows.

Complaint 106758

In this complaint, the customer was disconnected for nonpayment of both gas and electric deposits on March 27, 2009, and her accounts were processed as prior obligation. In May, the account was reviewed and reprocessed, because, according to PSE, “since it was a deposit she was disconnected for, she would not qualify for prior.” In response, staff sent a detailed email to PSE, which included the following instructions:

“Please correct the account to reflect usage as prior obligation amounts after the disconnection of service for deposits unpaid. I’m not sure why PSE developed this incorrect interpretation especially given all the discussions with our staff, and the years this rule has been in place. This is the first time I’ve ever seen it interpreted this way by PSE.”

Staff went on to explain that if a customer is disconnected for failure to pay a deposit, the customer’s usage at the time of disconnection is considered a prior obligation. While the company may exclude deposit amounts owing from the prior obligation amount, disconnection for nonpayment of deposit amounts does not “disqualify” a customer’s account from becoming a prior obligation. Staff cited one violation of WAC 480-90-123(3).

Complaint 106941

In this complaint, the customer alleged that PSE was requiring her to pay a prior obligation from a former residence to avoid disconnection at her current residence. The customer’s service was originally disconnected at two different locations in February, then reconnected at only one

⁷ Copies of the consumer complaints are attached as Appendix D.

location. The customer informed PSE that the amount due was a prior obligation, but was still told she was required to pay it to avoid disconnection. In response to a request from staff, PSE explained that the debt remaining from the second location that had not been reconnected had attached to the address where service was reconnected, and had not been processed as a prior obligation. PSE initially argued that because service was not reconnected, the rule of prior obligation did not apply. Commission staff pointed out that a reconnection was not necessary to trigger the rule of prior obligation. The complaint was resolved when PSE agreed to properly process the debt as a prior obligation. Staff cited one violation of WAC 480-100-123(3).

Complaint 107162

In this complaint, a customer was disconnected for nonpayment in December 2008. Following the December disconnection, the customer self connected in January 2009 and obtained \$406.51 in services. When PSE discovered the meter tampering, the customer was again disconnected. When the customer attempted to order a reconnection, PSE refused service on the basis that the customer was first required to pay \$5,247.90, the amount due at the time of the December disconnection. In its response to the complaint, PSE advised staff that the prior obligation amount from December was no longer a prior obligation because the customer had subsequently tampered with the meter and fraudulently obtained service. Staff clarified that the status of the prior obligation could not be changed on that basis, since the prior obligation occurred before the fraudulent activity. Staff explained: “there is nothing in our rules that state[s] prior obligation ever goes away and comes back to a live status, unless the company made it prior outside of the rules... In this complaint, the company knew that the customer has used \$400 worth of service. Therefore, the customer had to only pay that amount, plus any costs related to the fraud (meter repair, perhaps), plus deposit, if required.” PSE corrected the error and processed the debt as a prior obligation. PSE was cited for one violation of WAC 480-100-123(3).

Complaint 107183

In this complaint, a customer was disconnected for nonpayment and was told that she must pay her entire past due balance of \$235 to restore service. PSE staff stated that since the customer’s last payment of \$235 had been returned non-sufficient funds, she was told she would have to pay that amount to restore service. Following an e-mail exchange with staff, PSE processed the debt as a prior obligation. Staff cited one violation of WAC 480-100-123(3).

Complaint 107293

In this complaint, the customer was disconnected for nonpayment. The customer filed a complaint with the intent to restore service and have the account processed prior obligation. Staff sent the complaint to PSE, and PSE responded that the customer could be reconnected for \$181, which was one-half of the required deposit plus the reconnection fee, and the account would be processed prior obligation per the customer’s request. Upon receipt of this response, staff closed the complaint with the understanding that this arrangement would be honored. The complaint was reopened for further review and staff inquired about the status of the account and the amount of the prior obligation. PSE responded that the customer made three payments totaling \$230: a payment of \$40 on September 25, \$50 on November 10, and \$140 on November 13. Service was restored on November 13. PSE reasoned that because the amount of the three payments totaled more than the disconnect amount, the account was not processed prior obligation. Staff informed PSE that the account needed to be processed prior obligation and the payments reallocated to

reflect that application. PSE reprocessed the account, and one violation of WAC 480-100-123(3) was cited.

Complaint 107433

In this complaint, a customer was disconnected for nonpayment and attempted to restore service. The day after service was disconnected, the customer's husband called PSE to have the account put in his name and restart service. In response to the complaint, PSE stated that on July 15, 2009, a PSE representative spoke with the customer and her husband and "confirmed...this was a name game to...get away from the debt." Accordingly, PSE disconnected service again on July 23, 2009, "due to name games." PSE informed commission staff that the account would not be processed as a prior obligation because the customers attempted to put the account in a different name to avoid payment. Upon further review, PSE was given technical assistance and processed the account as a prior obligation. Staff cited one violation of WAC 480-100-123(3).

Complaint 107456

In this complaint, a customer was disconnected for nonpayment. The customer's past due balance was processed as a prior obligation, and service was restored. Installment arrangements were made for the prior obligation amount, and a payment for current services was applied to the prior obligation balance. PSE corrected the payment application, and staff cited one violation of WAC 480-100-123(3).

Complaint 107626

In this complaint, a customer was disconnected for nonpayment. The customer contacted the commission because she claimed PSE would not work with her and keep her service connected until she could receive energy assistance. In response to the complaint, PSE provided information on the amount needed to restore the account (half of the deposit and a reconnection fee) and agreed to process the account as prior obligation. Once the customer received pledges, service was restored. The amount billed to the customer through the date of disconnection was \$459.25; PSE processed the amount of the prior obligation as \$220.25. Upon further inquiry, PSE provided an explanation for the amount of the prior obligation, which included the application of \$95 in pledges to the past due amount. Because the pledges were received after service was disconnected and the purpose of pledge monies is to ensure continued service, this application was improper. Staff cited one violation of RCW 480-100-123(3).

Complaint 107696

In this complaint, a customer was disconnected for nonpayment in July 2009. PSE failed to process the account as prior obligation. When the customer called to restore service in October, she was told she would have to pay the disconnect amount of \$299.93. Staff cited two violations of WAC 480-90-123(2) for failure to process the account as prior obligation at the time of disconnection, and for telling the customer that she had to pay the disconnect amount to have service restored.

Complaint 107702

In this complaint, a customer was disconnected twice for nonpayment. PSE responded that when service was first disconnected in August, there were pledges on the account that somehow interfered with the debt being processed as prior obligation. A similar situation presented when

the customer was disconnected again September, and the past due amount was not processed as a prior obligation. The complaint was resolved by properly processing the combined debt as a prior obligation, and two violations of WAC 480-100-123(3) were cited.

Complaint 107780

In this complaint, a customer was inquiring about making payment arrangements to avoid disconnection of service. In its initial response to the complaint, PSE acknowledged that the account was improperly processed and the payment made for reconnection was applied to the outstanding balance. One violation of WAC 480-100-123(3) was cited.

Complaint 107889

In this complaint, a customer's service was disconnected in July, but not restored until November. At the time service was restored, the customer received a pledge on her account for \$666. PSE argued that because the amount pledged was larger than the amount owed at the time of the disconnection, the money would be applied to the past due amount and it would not be considered a prior obligation. Commission staff explained to PSE that the past due amount becomes a prior obligation at the time service is disconnected, regardless of what future payments are made in excess of the prior obligation amount. PSE reapplied the pledge to comply with WAC 480-100-123(3), but stated the following in an email to commission staff:

“This has been done. However, we are doing so in this case as a ‘one-off’ pending the results of our specific review of the relationship between the timing of disconnect and receipt of payment and how that payment is applied. In addition, we are reviewing if there are differences in the application of payments that are dependent on the source of the funds. For example: are pledge funds required (by contract with the agencies) to be applied to past due amounts before or after being applied to current and future charges.”

Staff cited one violation of WAC 480-100-123(3).

Recommendation

Staff recommends a penalty of up to \$100 for each of the three violations of WAC 480-90-123(2), and each of the 11 violations of WAC 480-100-123(3), for a total penalty of \$1,400.

Data Request

Following a review of consumer complaints, staff began a formal investigation into PSE's business practices related to disconnection of services for nonpayment and the application of the prior obligation rule. In order to determine the extent and frequency of errors, on January 26, 2010, the commission sent PSE a data request requiring the following documents and information⁸:

1. A list of all customers (electric and natural gas) in Washington state who were disconnected for nonpayment during the two-week period of October 15 through 31, 2009.
2. For each customer listed, provide a document or worksheet that shows the complete statement of debit and credit activity for the period of August 1 through December 31, 2009. This includes late fees, current charges, pledges, payments, reconnect fees, disconnect fees, etc. and the balances owing after each application. Please separate the account histories by product (gas or electric), and by account number or address, if different.
3. The name, title, telephone number, and e-mail address of the PSE contact person that our staff can work with directly for questions that may arise concerning any details of the data.

PSE responded to the data request on February 23, 2010. Based on the information provided, staff requested additional account detail for 179 of the 847 accounts identified by PSE as disconnected for nonpayment within the specified timeframe.

Staff found a total of 951 violations of WAC 480-100-123(3) or WAC 480-90-123(2) in 26 of the 179 accounts identified for further review.⁹ The findings are as follows.

1) Reversal of Prior Obligation

Customer A was disconnected for nonpayment on October 28, 2009. On November 2, prior obligation arrangements were made. On November 5, the customer received a pledge to her account, which PSE applied to the prior obligation amount and, according to the account notes, the "account was reassigned." The account was not processed prior obligation as required. Between November 5 and December 31, PSE was in violation of commission rules for 57 days.

Customer B was disconnected for nonpayment on October 26, 2009. That same day, prior obligation arrangements were made. On October 28, the customer received a pledge to her account, which PSE applied to the prior obligation amount. The account notes state that the "reconnect amount needed" was met. The account was not processed prior obligation as required. Between October 28 and December 31, PSE was in violation of commission rules for 65 days.

⁸ A copy of the data request is attached as Appendix E.

⁹ Redacted copies of each of the account spreadsheets are attached as Appendix F.

Customer C was disconnected for nonpayment on October 21, 2009. That same day, prior obligation arrangements were made. On October 22, the customer received a pledge to her account, which PSE applied to the prior obligation amount. The account notes stated the “customer paid disconnect amount.” The account was not processed prior obligation as required. Between October 22 and December 31, PSE was in violation of commission rules for 72 days.

Customer D was disconnected for nonpayment on October 28, 2009. That same day, prior obligation arrangements were made. On October 29, the customer received a \$1,000 pledge to his account. Because the disconnect amount was \$1,360.33, the customer was told that the pledge was insufficient to order a reconnect, and that he would need to make a \$360.33 payment. The account was not processed prior obligation as required. Between October 29 and December 31, PSE was in violation of commission rules for 64 days.

Customer E was disconnected for nonpayment on October 20, 2009. That same day, prior obligation arrangements were made. On October 21, the customer received a pledge to her account, which PSE applied to the prior obligation amount. The account was not processed prior obligation as required. Between October 21 and December 31, PSE was in violation of commission rules for 73 days.

Customer F was disconnected for nonpayment on October 23, 2009. On October 28, a PSE customer service representative told the customer that prior obligation was available “if he was unable to get a pledge to his account.” PSE misrepresented the customer’s options, and the pledge monies were applied to the prior obligation to restore service. Between October 23 and December 31, PSE was in violation of commission rules for 71 days.

Customer G was disconnected for nonpayment on October 29, 2009. One of the customers on the account had been disconnected for nonpayment in connection with a different account. That amount, \$868.40, was prior obligation. When PSE discovered the customer was still living at the address, the prior obligation balance was transferred back to the account as “active.” The account notes state “Customer not eligible for prior obligation...Customer does NOT qualify for prior obligation due to name games.” Between December 4 and December 31, PSE was in violation of commission rules for 28 days.

2) Failure to Inform about Prior Obligation

Customer H was disconnected for nonpayment on or around July 22, 2009. On August 5, the customer called to request a reconnection. She had received a pledge of \$750 to her account. Because the disconnect amount was \$1,108, a PSE customer service representative told her she would need an additional \$424.72 for service to be restored. The customer was not reconnected until August 22, and was again disconnected for nonpayment on October 15. Despite a demonstrated inability to pay the disconnect amount, the customer was not informed about prior obligation. The account should have been processed as a prior obligation at the time service was disconnected. Between October 15 and December 31, PSE was in violation of commission rules for 78 days.

Customer I was disconnected for nonpayment on October 3, 2009. On October 28, the customer called and requested payment arrangements. The account notes state: “Service disconnected. Reviewed past payment arrangements. The account is ineligible based on credit guidelines.

Offered energy assistance resources. [Customer] is aware payment is necessary for reconnection.” After several attempts to work with the company, the customer was still disconnected as of December 31, 2009. Despite a demonstrated inability to pay the disconnect amount, the customer was not informed about prior obligation. The account should have been processed as a prior obligation at the time service was disconnected. Between October 3 and December 31, PSE was in violation of commission rules for 91 days.

Customer J was disconnected for nonpayment on October 29, 2009. On October 22, the customer had inquired about payment arrangements to avoid disconnection and was told she was ineligible. Following the disconnection, the customer called back on November 14 and was quoted the disconnect amount and a reconnect fee to restore service. As of December 31, the customer had not been reconnected. Despite a demonstrated inability to pay the disconnect amount, the customer was not informed about prior obligation. The account should have been processed as a prior obligation at the time service was disconnected. Between October 29 and December 31, PSE was in violation of commission rules for 64 days.

Customer K was disconnected for nonpayment on October 29, 2009. That same day, the customer called to inquire about “what it would take to get service reconnected.” PSE advised that the customer would have to pay the disconnect amount and a reconnect fee. On November 3, the customer received a pledge to her account that was applied to the disconnect amount. Despite a demonstrated inability to pay the disconnect amount, the customer was not informed about prior obligation. The account should have been processed as a prior obligation at the time service was disconnected. Between October 29 and December 31, PSE was in violation of commission rules for 64 days.

Customer L was disconnected for nonpayment on October 19, 2009. On October 20, the customer called inquiring about the amount needed to restore service. PSE advised the customer he would have to pay the disconnect amount and a reconnect fee, plus a new deposit. The account notes state that the customer “was extremely upset about the deposit and used profanity and the call was lost.” As of December 31, the customer had not been reconnected. Despite a demonstrated inability to pay the disconnect amount, the customer was not informed about prior obligation. The account should have been processed as a prior obligation at the time service was disconnected. Between October 19 and December 31, PSE was in violation of commission rules for 74 days.

Customer M was disconnected for nonpayment on October 29, 2009. On October 30, the customer called to discuss reconnection, and was told he had to pay the disconnect amount to restore service. Information about prior obligation was not provided. The account should have been processed as a prior obligation at the time service was disconnected. Between October 29 and December 31, PSE was in violation of commission rules for 64 days.

3) Improper Application of Pledge Monies

According to Community Action Council, the intent of pledge monies is “to be applied to a new deposit, reconnect fee and then credited to new balances accrued in order to maintain [a

customer's] heat through the heating season. It is not the intent that the monies be applied to any prior obligation balance.”¹⁰

The Multi-Service Center believes that the customer should decide how they want the payment applied, and should “have some measure of decision making over the situation.”¹¹

For each of the accounts below, PSE decided how the pledge monies would be applied without input from the customer.

Customer N was disconnected for nonpayment on October 23, 2009. On October 30, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer O was disconnected for nonpayment on October 23, 2009. The customer called that same day and was advised she had to pay the disconnect amount or receive a pledge to restore service. On October 26, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer P was disconnected for nonpayment on October 20, 2009. On October 22, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer Q was disconnected for nonpayment on October 22, 2009. On October 30, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer R was disconnected for nonpayment on October 21, 2009. On October 29, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer S was disconnected for nonpayment on October 19, 2009. On October 21, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer T was disconnected for nonpayment on October 21, 2009. On October 22, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer U was disconnected for nonpayment on October 29, 2009. That same day, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

¹⁰ Position of Community Action Council, the organization that administers LIHEAP energy assistance funds in Lewis, Mason and Thurston Counties.

¹¹ Position of Multi-Service Center, the organization that administers LIHEAP energy assistance funds in areas of King County outside the Seattle city limits.

Customer V was disconnected for nonpayment on October 22, 2009. On October 28, the customer received a pledge to her account, which was applied to the prior obligation to restore service.

Customer W was disconnected for nonpayment on October 22, 2009. On November 2, the customer received a pledge to her account, which was applied to the prior obligation to restore service. Because the amount of the pledge was less than the disconnect amount, PSE also applied a \$200 customer payment toward the prior obligation.

Customer X was disconnected for nonpayment on October 15, 2009. That same day, the customer received a pledge to her account, which was applied to the prior obligation to restore service. The pledge was less than the disconnect amount.

4) Payment Applied to Prior Obligation in Error

Customer Y was erroneously disconnected for nonpayment on October 21, 2009, when a payment for current charges was applied to a prior obligation.

5) Circumventing Prior Obligation

Customer Z was issued a final notice for \$741.55 on August 14, 2009. On August 27, PSE accepted a \$400 payment during a disconnection visit, which prevented the disconnection. No payment arrangements were made for the remaining \$341.55. On October 19, the customer was disconnected for \$450.91. PSE allowed the customer to reconnect for \$341.55, the remainder of the disconnect amount from August. In response to a staff inquiry regarding the company's decision to accept less than the disconnect amount to reestablish service, PSE explained that "The 10/9 'Final Notice' amount was \$450.91, but we used the disconnect notice from August 27 to determine the reconnect amount." In response to an inquiry from staff regarding the \$400 payment on August 27, PSE explained: "Our practice is to accept partial payment to prevent disconnect." PSE cited WAC 480-100-128(6)(c), which allows a payment arrangement to be made without rendering the disconnection notice void. However, no payment arrangement was made. PSE accepted the \$400 payment in lieu of the total disconnect amount, and held off on the disconnection for two months. When the disconnection was completed on October 19, the amount billed to the customer was \$718.88, which should have been the amount of the prior obligation because the customer did not make a payment equal to or greater than \$450.91. Between October 19 and December 31, PSE was in violation of commission rules for 74 days.

Recommendation

Staff recommends a total penalty of \$95,100 as follows:

- \$100 for each of the 430 violations of WAC 480-90-123(2) and/or 480-100-123(3) in Section 1
- \$100 for each of the 435 violations of 480-90-123(2) and/or 480-100-123(3) in Section 2
- \$100 for each of the 11 violations of 480-90-123(2) and/or 480-100-123(3) in Section 3
- \$100 for the violation of 480-90-123(2) and/or 480-100-123(3) in Section 4
- \$100 for each of the 74 violations of 480-90-123(2) and/or 480-100-123(3) in Section 5

BUSINESS PRACTICES INVESTIGATION

Staff's review of 371 consumer complaints filed between June and December of 2009 revealed deficiencies in a number of areas, as discussed below.

WAC 480-100-108(2)(d) Application for Service

WAC 480-100-108(2)(d) provides:

(2) The utility may require the following information when an applicant applies for service:

(d) Proof of identification. The utility must allow the applicant to choose from a list, provided by the utility, of at least five sources of identification. The list must include a current driver's license or other picture identification...

Staff found four violations of WAC 480-100-108(2)(d) in four complaints, as follows.¹²

Complaint 106708

In this complaint, a customer called PSE to inquire about her account and was told by a representative that she would have to provide her driver's license number before any information could be released. Staff reminded the company that it must allow applicants to choose from a list of at least five sources of identification, one of which must be picture identification. Staff cited a violation of WAC 480-100-108(2)(d).

Complaint 106843

In this complaint, a customer was told he must provide his driver's license number to obtain account information. In response, PSE stated that its agents are "instructed to get updated information from customers whose records are not complete. One piece of personal information the agents are now asking for is a customer's driver's license for verification of that customer's identity. WAC 480-100-90/108(1)(d) allows PSE to ask for a picture ID such as a driver's license." PSE was reminded that the rule allows PSE to require proof of identification, but it may not require any one type of identification; instead, customers must be allowed to choose from a list of at least five sources of identification, and picture identification must be included as an option. Staff cited one violation of WAC 480-100-108(2)(d).

Complaint 106932

In this complaint, the customer called PSE to verify whether her payment had been processed. The customer was asked to provide her date of birth, driver's license number, cell phone number, email address, employer, and work phone number before any information could be released. Staff cited one violation of WAC 480-100-108(2)(d).

Complaint 108066

In this complaint, the customer called PSE to discuss her bill. After providing the company with her birth date, last four digits of her Social Security Number, and the name of her employer, she was told her account information could not be released until she provided a phone number. Staff

¹² Copies of the complaints are attached as Appendix G.

cited one violation of WAC 480-100-108(2)(d).

WAC 480-90-128(1) Disconnection of Service – Customer-Directed

WAC 480-90-128(1) provides:

*(1) **Customer-directed.** The utility may require customers to give at least three days' notice prior to the date service is to be discontinued. The customer is not responsible for usage after the requested date for discontinuance of service, provided the customer gave proper notice. If the customer moves from the service address and fails to request that service be discontinued, the customer will be responsible to pay for service taken at that service address until the utility can confirm either that the customer has vacated the premises and can access the meter or that a new responsible party is taking service.*

Staff found six violations of WAC 480-90-128(1) in two complaints, as follows.¹³

Complaint 107326

In this complaint, the company agreed to remove the customer's meter in January 2009 and stop charging the monthly meter fee. The company continued to bill the customer from February to August, seven months beyond the requested stop date. Staff cited one violation of WAC 480-90-128(1).

Complaint 107409

In this complaint, the customer directed the company to disconnect service from August 2008 until July 2009. When the customer's service was reinstated, he was billed for usage from November 2008 until March 2009. Staff cited 144 violations of WAC 480-90-128(1). For the purpose of this investigation, staff finds five violations of WAC 480-90-128(1), one for each month the customer was billed improperly.

WAC 480-90-128(9) Disconnection of Service – Remedy and Appeals

WAC 480-90-128(9) provides:

*(9) **Remedy and appeals.** Service may not be disconnected while the customer is pursuing any remedy or appeal provided by these rules or while engaged in discussions with the utility's representatives or with the commission. Any amounts not in dispute must be paid when due and any conditions posing a danger to health, safety, or property must be corrected. The utility will inform the customer of these provisions when the customer is referred to a utility's supervisor or to the commission.*

Staff found two violations of WAC 480-90-128(9) in two complaints, as follows.¹⁴

¹³ Copies of the complaints are attached as Appendix H.

¹⁴ Copies of the complaints are attached as Appendix I.

Complaint 106758

In this complaint, the customer's service was disconnected during the commission's investigation of the complaint. Staff cited one violation of WAC 480-90-128(9).

Complaint 106820

In this complaint, the customer's service was disconnected the same day that the company received the complaint. Staff cited one violation of WAC 480-90-128(9).

WACs 480-90-173(3) and 480-100-173(3) Gas/Electric Company Responsible for Complaints and Disputes

WACs 480-90-173(3)(a) and WAC 480-100-173(3)(a) provide:

(3) When the commission refers an informal complaint to the utility, the utility must:

(a) Investigate and report the results to the commission within two business days. The commission may grant an extension of time for responding to the complaint, if requested and warranted...

Staff found ten violations of WAC 480-90-173(3)(a) in four complaints, and 12 violations of WAC 480-100-173(3)(a) in six complaints, as follows.¹⁵

Complaint 106690

In this complaint, the company's initial response did not include service order notes or visit notes; staff requested all records. Staff cited one violation of WAC 480-90-173(3)(a).

Complaint 106758

In this complaint, the company failed to provide due dates with the customer's account history. Staff cited one violation of WAC 480-100-173(3)(a).

Complaint 106774

This complaint was sent to the company on June 16, and the company responded on June 18. An additional account note, which should have been included in the initial response, was forwarded to staff on June 25 to dispute another violation. Staff cited one violation of WAC 480-90-173(3)(a) because the June 18 response was incomplete. Between June 18 and June 25, PSE was in violation of commission rules for seven days.

Complaint 107601

This complaint was sent to the company on October 9. A response was due October 13. On October 15, a second request was sent to the company. The company requested an extension, and provided a response October 16. Staff cited two violations of WAC 480-90-173(3)(a).

Complaint 107620

In this complaint, an incomplete response was received October 15, which did not include due dates for the customer's bills. The information was not received until October 20, five days past the due date. Staff cited three violations of WAC 480-100-173(3)(a).

¹⁵ Copies of the complaints are attached as Appendix J.

Complaint 107625

This complaint was sent to the company on October 14. A response was due October 16, but was not received until October 19. Staff cited one violation of WAC 480-100-173(3)(a).

Complaint 107626

This complaint was sent to the company on October 14. A response was due October 16, but was not received until October 19. Staff cited one violation of WAC 480-100-173(3)(a).

Complaint 107627

This complaint was sent to the company on October 14. A response was due October 16, but was not received until October 19, following a second request from staff. Staff cited one violation of WAC 480-100-173(3)(a).

Complaint 107694

This complaint was sent to the company on October 22. A response was due October 26, but was not received until October 30. Additionally, the initial response was incomplete. A complete billing, payment and notice history was not received until November 3. Staff cited five violations of WAC 480-100-173(3)(a).

Complaint 107886

In this complaint, the company failed to provide a complete response. A pertinent account note was not provided until staff inquired about additional documentation. Staff cited one violation of WAC 480-90-173(3)(a).

WACs 480-90-173(3)(c) and WAC 480-100-173(3)(c) provide:

(3) When the commission refers an informal complaint to the utility, the utility must:

(c) Respond to the commission's request for additional informal complaint information within three business days of the request or at a date specified by the commission. The commission may grant an extension of time for responding to the complaint, if requested and warranted.

Staff found 11 violations of WAC 480-90-173(3)(c) in two complaints, and 33 violations of WAC 480-100-173(3)(c) in three complaints, as follows.¹⁶

Complaint 106708

In this complaint, a request for additional information was sent June 16, due June 19. The information was not received until August 3, following a second request. Staff cited 30 violations of WAC 480-100-173(3)(c).

Complaint 106807

In this complaint, a request for additional information was sent to the company on June 30, due July 6. The information was not received until July 8. Staff cited two violations of WAC 480-100-173(3)(c).

¹⁶ Copies of the complaints are attached as Appendix K.

Complaint 107291

In this complaint, a request for additional information was sent to the company on September 24, due September 28. The information was not received until October 5. Staff cited five violations of WAC 480-90-173(3)(c).

Complaint 107381

In this complaint, a request for additional information was sent to the company on October 12, due October 15. The information was not received until October 26. Staff cited six violations of WAC 480-90-173(3)(c).

Complaint 107656

In this complaint, a request for additional information was sent to the company on October 27, due October 30. The information was not received until November 2, following a second request. Staff cited one violation of WAC 480-100-173(3)(c).

Recommendation

Staff recommends penalties of \$100 for each of the 21 violations of WAC 480-90-173(3), and each of the 45 violations of WAC 480-100-173(3); a penalty of \$100 for each of the four violations of WAC 480-100-108(2)(d); and a penalty of \$100 for each of the eight violations of WAC 480-90-128, for a total penalty of \$7,800.

SUMMARY OF RECOMMENDATIONS

Staff recommends a total penalty of \$104,300 for the following violations:

- For three violations of WAC 480-90-123(2) in two consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 11 violations of WAC 480-100-123(3) in ten consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 951 violations of WACs 480-90-123(2) and 480-100-123(3) in 26 of the accounts reviewed, staff recommends a penalty of \$100 for each violation.
- For four violations of WAC 480-100-108(2)(d) in four consumer complaints, staff recommends a penalty of \$100 for each violation.
- For ten violations of WAC 480-90-173(3)(a) in four consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 12 violations of WAC 480-100-173(3)(a) in six consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 11 violations of WAC 480-90-173(3)(c) in six consumer complaints, staff recommends a penalty of \$100 for each violation.
- For 33 violations of WAC 480-100-173(3)(c) in three consumer complaints, staff recommends a penalty of \$100 for each violation.
- For six violations of WAC 480-90-128(1) in two consumer complaints, staff recommends a penalty of \$100 for each violation.
- For two violations of WAC 480-90-128(9) in two consumer complaints, staff recommends a penalty of \$100 for each violation.