



TO: Dave Danner, Chairman
Phil Jones, Commissioner
Ann Rendahl, Commissioner

FROM: Corrected Billing Issues Rulemaking Team

DATE: Jan. 19, 2016

SUBJECT: Rulemaking to consider modifications and additions to rules about corrected billing issues in WAC 480-90-178 and WAC 480-100-178, Docket U-144155

RE: Adoption Hearing, Jan. 21, 2016

RECOMMENDATION

Staff recommends that the commission adopt the revised rules as published in the CR-102 filed with the Code Reviser, with clarifying changes as shown in the attached proposed rules.

BACKGROUND

On Feb. 18, 2015, a CR-101 was filed to consider adoption of new rules within WAC 480-90-178 and WAC 480-100-178. The proposed rules establish common standards for all regulated energy companies to identify and correct stopped meters and unidentified energy usage. The new rules should prompt companies to make appropriate resource allocation to reduce retroactive bills. The CR-101 is filed under Docket U-144155.

On Feb. 20, 2015, prior to drafting any revised rule language, the commission issued a notice of opportunity for the energy industry to file written comments regarding the need to revise WACs 480-90-178 and 480-100-178. Comments were due March 23, 2015. The commission accepted additional comments during a May 20, 2015, workshop.

On June 19, 2015, the commission published informal draft revisions to WACs 480-90-178 and 480-100-178, and issued a notice requesting responses to questions and comments on the informal draft revisions. Comments were due July 21, 2015.

As a result of the comments received and after further discussion, staff decided to expand the rulemaking to address all corrected billing issues. The commission filed a Supplemental CR-101 with the Office of the Code Reviser on Sept. 4, 2015. Commission staff sought comments from interested persons on proposed changes to the rule. There were a number of comments; however, only minor changes were made to the draft rules.

After filing a Notice of Proposed Rulemaking (CR-102) on Nov. 18 with the Office of the Code Reviser, staff sought final comments on Dec. 21.

STAKEHOLDER COMMENTS

We received six comments in response to the Nov. 18 notice. The commenters generally agree with the draft rules. All the comments are summarized in Attachment B. The commenters had the following issues:

1. The Energy Project supports the commission's six-month adjustment on corrected bills.

RESPONSE: Staff appreciates The Energy Project's support.

2. Northwest Natural Gas (NWNG) proposed a number of clarifications.

RESPONSE: Staff generally agrees with the clarifications provided by NWNG (see attachment B). Staff disagrees with NWNG's comments about replacing the word "discovers" with "confirmed or determined" to allow time for investigation and confirmation of an error. For example, staff has investigated consumer complaints where a company delayed its investigation of a potential meter malfunction when a customer called in to report a low meter reading. Attachment A shows the revised redlined rules, which incorporate many of the clarifications provided by NWNG. Staff also disagrees with NWNG's replacement of the term plan with summary. The plan can include a summary but incorporates a detailed scheme, program, or method worked out beforehand for the accomplishment of an objective.

3. Pacific Power and Light (Pacific Power) proposed to limit under-billing adjustments for billing errors to six months, unless the utility shows good cause why a longer period is necessary due to circumstances beyond the utility's control.

RESPONSE: Staff disagrees. Underbilling, whether it is the result of a meter malfunction or any other situation where energy usage was not billed or was inaccurately billed, results in the issuance of corrected bills that are burdensome for consumers. Establishing reasonable time limits for corrected bills will ensure the regulated utilities have a system for promptly identifying and resolving corrected billing issues.

4. NWNG and Avista proposed revisions to section (5)(a) which would provide a utility flexibility in determining when to issue a corrected bill. NWNG proposed a threshold of \$1. Avista suggested the language be modified to read: "... a utility **may** issue a corrected bill to a customer to recover billed amounts and must issue a corrected bill to a customer to refund billed amounts."

RESPONSE: Staff disagrees. The companies have not provided evidence that this is a pressing issue (i.e., cost involved in issuing a corrected bill and number of bills involved).

5. NWNG, Puget Sound Energy (PSE), and Pacific Power believe a longer period of time should be allowed for under-billing adjustments for non-residential customers because of the complexity involved with non-residential metering.

RESPONSE: Staff disagrees. Again, the companies have failed to provide compelling rationale why non-residential customers should be excluded or treated differently. In fact, the data shows the number of non-residential accounts billed in excess of six months is very small, and the total amounts billed on corrected bills to nonresidential customers in excess of six months is similar to the total amounts for residential customers. See the attachment to the comment matrix that shows a table with company comparisons of the amounts billed in excess of six months for non-residential customers. The amounts are very small compared to the companies' annual revenue.

6. PSE and Cascade Natural Gas Company (CNGC) commented on unassigned energy usage (UEU). PSE stated its current practices for addressing UEU are based on a usage threshold. PSE states that it is not practical to make expensive truck rolls as a first resort. CNGC stated that a bill is not issued for meters that have no customer of record for the premise. CNGC does not consider unassigned energy as a billing error.

RESPONSE: Staff disagrees with PSE's comment. Unassigned energy usage occurs when there is usage but no assigned customer. The utility can see the usage and knows the address. The company can send a letter to the residence and ask them to contact the company to sign up for service by a certain date. If the customer fails to respond, the company should go out and disconnect service. In response to CNGC's comment, staff changed the language and eliminated the term "billing error."

7. NWNG and Pacific Power commented on the timeframe to refund overbilled amounts. NWNG does not agree with the six-year requirement. The company is recommending the commission consider 24 months for refunding overbilled amounts. Pacific Power agrees that having a specific adjustment period for overbillings plainly defined in the rules eliminates confusion for all parties. Pacific Power recommends the rule state the maximum period utilities are required to adjust bills for over-billing is six years.

RESPONSE: Staff appreciates NWNG's understanding that there is a different dynamic involved with a bill correction that is a collection and one that is a refund; however, staff disagrees with NWNG's recommendation of 24 months. Staff believes that customers should be allowed the maximum refund for overbilled amounts allowed by law. RCW 4.16.040 allows six years for an action upon an accounts receivable.

8. NWNG, PSE, and Pacific Power recommend the elimination of section (5)(c), which requires companies to file their processes and procedures related to the implementation of the rule provisions. The companies believe that the requirement would be administratively burdensome and of questionable value.

RESPONSE: Staff disagrees; however, staff agrees to revise the language in section (5)(c) as follows: “A utility must develop and maintain procedures that establish practices for the prompt identification of meters that are not functioning correctly and for identification of unassigned usage meters. The objective of such procedures shall be to mitigate the number of under-billing occurrences that exceed six months in duration.” The complete language modification to section (5)(c) is provided in attachment A.

9. Avista again proposes that item (6)(e), “The actions taken to eliminate the cause of the bill correction,” be removed. The company states that the reason for the bill correction is already included in part (6)(a), “The reason for the bill correction,” therefore the company does not believe this requirement will add additional value.

RESPONSE: Staff disagrees. In those instances where the reason for the bill correction in part (a) covers the requirement to explain the actions taken to resolve the cause of the bill correction in part (e), the company would not need to add additional information.

10. PSE stated that creating an expanded explanation of the availability of a payment arrangement is not needed since the company already has an efficient automated process in place that automatically sets up an installment plan for the customer.

RESPONSE: Staff believes customer communication is important. WAC 480-90-178 and 480-100-178 already require a significant amount of detail on the normal customer bills. It only follows that when corrected bills are necessary, the company should be required to issue a full explanation of the corrected bill so the customer can fully understand the reason(s) for the correction.

11. Pacific Power continues to maintain that a conflict exists between WAC 480-100-183(5)(a) and the proposed WAC 480-100-178(5). The company contends that if a utility discovered a meter error through a customer-requested meter test and determined the customer was under-billed by 12 months, to comply with WAC 480-100-183(5)(a), the utility would be required to adjust the customer’s bill for the full 12-month period.

RESPONSE: Staff disagrees. WAC 480-100-183(5)(a) does not specify the timeframe for the corrected bill. The rule simply states: “If the utility can identify the date the customer was first billed from a defective meter, the utility must refund or bill the customer for the proper usage from that date.” WAC 480-100-178(5) provides additional clarification regarding the collection period for the corrected bill. Staff does not believe there is a conflict.

CONCLUSION

Staff recommends that the commission adopt the revised rules as shown in Attachment A.

ATTACHMENTS

- A – Proposed Rule Revisions, with clarifying changes
- B – Comment Summary and Commission’s Response

cc: Roger Kouchi, Consumer Protection, Team Lead
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