

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET U-111465
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 04
)	
v.)	
)	INITIAL ORDER APPROVING
PUGET SOUND ENERGY, INC.,)	SETTLEMENT AGREEMENT
)	
Respondent.)	
)	
.....)	

1 ***Synopsis.** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective as described in the notice at the end of this Order. If this Initial Order becomes final, the parties’ proposed Settlement Agreement will be approved and Puget Sound Energy, Inc. (PSE or Company) will be required to pay a monetary penalty of \$430,000 and agree not to seek recovery of this amount in rates. In addition, PSE’s modified field procedures for handling disconnect visit fees will be implemented to remedy past errors in assessing such fees on non-disconnect days and to prevent future recurrences.*

2 **PARTY REPRESENTATIVES:** Michael Fassio, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Staff).¹ Donna Barnett and Jason Kuzma, Perkins Coie, Bellevue, Washington, represent PSE. Lisa Gafken, Senior Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General (Public Counsel).

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

BACKGROUND

- 3 On December 14, 2011, the Washington Utilities and Transportation Commission (Commission) by and through its Staff filed a complaint against PSE alleging as many as 1,639 violations of Washington Administrative Code (WAC) 480-90-128(6)(k) and/or WAC 480-100-128(6)(k). These Commission rules govern when a regulated utility may charge a fee for making a visit to a customer's home for the purpose of disconnecting natural gas or electric service. In this case, Staff alleged that PSE improperly charged disconnect visit fees during the months of April and May 2011 when Company representatives went out to customers' homes for other purposes (*i.e.*, payment collection) or on declared non-disconnect days.²
- 4 PSE filed an answer on December 30, 2011, admitting that it had erroneously charged a number of customers a \$13 disconnection visit fee for visits other than the purpose of disconnection. PSE indicated that it had already refunded all such charges imposed during calendar year 2011 and made internal process changes to prevent customers from being charged the disconnect visit fee on non-disconnect days.

SETTLEMENT AGREEMENT

- 5 On October 29, 2012, the parties filed with the Commission a full settlement and individual supporting narratives. The Settlement Agreement includes (1) the Company's admission that it violated Commission rules and its own tariff regarding disconnect fees; (2) a requirement that PSE pay a monetary penalty of \$430,000; (3) acknowledgment that PSE has identified and refunded to customers all³ erroneous disconnect fees dating back two years prior to the filing of the complaint (to December 14, 2009); and (4) PSE's agreement to discontinue field visits to customers' service addresses for collection purposes on all non-disconnect days.

² A "non-disconnect day" is one that the Company has determined inappropriate to perform disconnections, such as on very cold weather days, during a storm, or on a holiday. *See* PSE's Narrative, ¶ 7.

³ In 14 instances, PSE was unable to refund the inappropriately charged disconnect visit fee(s) because those customers had declared bankruptcy and their accounts had been written off.

6 Staff and Public Counsel agree that PSE's issuance of refunds or credits is in the public interest because it makes affected customers whole. Public Counsel points out that those households affected by the inappropriate charges were likely low-income families to whom a \$13 fee could be financially significant. Further, Staff and Public Counsel agree that PSE's discontinuance of the practice of visiting a customer's service address for collection purposes on a non-disconnect day will eliminate a potentially misleading or intimidating practice.

7 All parties agree that the \$430,000 monetary penalty imposed on the Company is a significant amount but also represents a compromise of litigation positions.

DISCUSSION AND DECISION

8 WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

9 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

10 We approve the Settlement Agreement without condition. The Agreement rectifies a practice that resulted in improperly charged fees to PSE's most vulnerable customers and ensures the Company implements a new process to prevent future recurrences.

Instead of refunds, the Company pledges to contribute the sum total of these amounts (\$184) to PSE's Home Energy Lifeline Program (HELP) fund. *See* Settlement Agreement, ¶ 11.

- 11 Further, the Agreement ensures that PSE will not benefit by retaining any of the improperly charged disconnect visit fees. The Company has applied credits or made refunds to customer accounts improperly charged the \$13 disconnect visit fee wherever possible. The Company has also pledged to make a contribution to PSE HELP in the amount of any improper fees charged to accounts that can no longer be credited due to customer bankruptcies.
- 12 Finally, the Agreement imposes a significant monetary penalty on PSE in an amount we believe should be sufficient to deter future violations of Commission rules in this regard.
- 13 The terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. We find that the Settlement Agreement is consistent with the public interest and should be approved as filed and without condition.

ORDER

THE COMMISSION ORDERS:

- 14 (1) The Settlement Agreement is approved without condition and is attached as Exhibit A to, and incorporated into, this Order and adopted as the final resolution of the disputed issues in these dockets; and
- 15 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective November 8, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

**Exhibit A
Settlement Agreement**