

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

SARAH HAND AND GRETCHEN HAND,
a married couple

Complainant,

v.

RAINIER VIEW WATER COMPANY, INC.,

Respondent.

DOCKET UW 170924

**EXHIBIT 5 TO REPLY TESTIMONY
OF SARAH HAND**

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TO REPLY TESTIMONY OF SARAH HAND

July 2, 2018

UTC 2014 Investigation Report

re: Rainier View Water Company



Investigation Report

Rainier View Water Company, Inc.

UW-140616

Susie Paul
Compliance Investigations

June 2014

TABLE OF CONTENTS

Purpose, Scope, and Authority.....	3
Executive Summary	4
Background	5
Investigation.....	6
Inspection of Documents	7
Technical Assistance.....	8
Deposits.....	10
Deposit Return	10
Discontinuing Service – Company Initiated	11
Reconnecting Service	11
Reconnecting Service Prior Obligation	12
Form of Bills.....	13
Responsibility for Complaints and Disputes.....	15
Rate Discrimination	15
Summary of Recommendations.....	17

PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether Rainier View Water Company, Inc. (Rainier View) is in compliance with commission laws and rules outlined in Washington Administrative Code (WAC) 480-110 and Revised Code of Washington (RCW) 80.28.

Scope

The scope of this investigation focuses on Rainier View's business practices as reflected in consumer complaints filed with the commission between Jan. 1, 2012, and Oct. 31 2013, and documents provided by Rainier View in response to staff's data request.

Authority

Staff undertakes this investigation pursuant to Revised Code of Washington (RCW) 80.04.070, which grants the commission specific authority to conduct such an investigation.

Staff

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EXECUTIVE SUMMARY

As a result of increased violations recorded against Rainier View Water Company in 2012 and 2013, staff determined an investigation was necessary to determine whether Rainier View is in compliance with commission laws and rules. Staff reviewed eleven consumer complaints received by the commission between Jan. 1, 2012, and Oct. 31, 2013, which resulted in 61 recorded violations. Staff also reviewed documents related to Rainier View's disconnection of water services for the months of April and May 2013, and the company's process for handling internal customer complaints.

Staff found that Rainier View violated the following commission laws and rules:

- WAC 480-110-335(9), When refund of deposits is required
- WAC 480-110-355(3), Required notice prior to disconnecting service
- WAC 480-110-355(5), Reconnecting water service after disconnection
- WAC 480-110-375(1), Form of bills
- WAC 480-110-385(4), Water company responsibility for complaints and disputes
- RCW 80.28.100 / Tariff WN U-2, Sheet 12, Rule 16, Rate discrimination prohibited - exception

Recommendation

Staff recommends the commission issue a penalty assessment of \$100 per violation against the company for each of the following 26 violations, for a total potential penalty of \$2,600:

- 2 violations of WAC 480-110-395(9)(b).
- 1 violation of WAC 480-110-335(3)(b)(ii).
- 1 violation of WAC 480-110-335(3)(c)(iii).
- 19 violations of WAC 480-110-355(5)(b).
- 2 violations of WAC 480-110-355(5)(c).
- 1 violation of WAC 480-110-375(1).

Staff additionally recommends that Rainier View review this report closely because it provides valuable technical assistance in areas that need improvement, in certain circumstances. Future violations or failure to make improvements in these areas may result in penalties or other enforcement action.

BACKGROUND

Company

Rainier View is a for-profit corporation located in Graham, Washington, serving the Graham area and parts of Spanaway, Puyallup, Gig Harbor, and other outlying areas. Rainier View serves water to approximately 17,335 billable connections as of June 2013.

According to the Washington Secretary of State, Rainier View incorporated on Dec. 4, 1989, and maintains an “active” status with the Secretary of State and the Washington State Department of Revenue.¹ Neil Richardson and Paula Richardson are listed as the governing persons. Neil and Paula Richardson also own Richardson Well Drilling and Richardson Bottling Company.

Rainier View has been regulated by the commission for more than 20 years, and was formerly registered under the name “Richardson Water Companies.” Rainier View is listed as a Class A water company with the commission, and as a Class A water system with the state Department of Health.

The corporate ownership listed on Rainier View’s 2012 annual report is as follows:

Neil H. Richardson	74.80%
Douglas R. Fisher	14.40%
Robert L. Blackman	7.20%
Charles C. Warner	3.60%

Recent annual reports filed by Rainier View reflect the following gross revenue:

Annual Report Year	Date Filed	Gross Operating Revenue
2012	April 26, 2013	\$5,658,934
2011	May 2, 2012	\$4,836,135
2010	May 2, 2011	\$4,705,858

Investigation

Staff initiated this investigation into Rainier View’s business practices following a review of commission-referred consumer complaints.

¹ See Attachment A, Washington Secretary of State and Department of Revenue records for Rainier View.

INVESTIGATION

Data Request

On June 19, 2013, staff requested the following records and information from Rainier View²:

1. A copy of the company's customer complaint register, listing ALL complaints and claims from January 1, 2012, through May 31, 2013. Include all documents related to each complaint or claim and how the issue was resolved.
2. A copy of every disconnect notice mailed between January 1, 2012, and May 31, 2013.
3. A list of each disconnection performed between January 1, 2012, and May 31, 2013, including:
 - (a) Date of the disconnect notice(s).
 - (b) Date service was disconnected.
 - (c) Reason for disconnection.
 - (d) Amount paid by the customer to restore service.
 - (e) Date service restored.
4. A copy of each customer's bill assessing a late fee.
5. A copy of the company's consumer guide and the company's delivery schedule for the guide.
6. A current count of all customers and/or connections.
7. A current example of the company's billing statement, front and back.

Staff asked Rainier View to furnish the documents to commission staff by 5:00 p.m. on July 1, 2013.

² See Attachment B, June 19, 2013 Data Request.

INSPECTION OF DOCUMENTS

RCW 81.04.070 gives the commission the right to inspect the books, papers, and documents of any public service company.

On June 25, 2013, Richard Finnigan, counsel for Rainier View, sent a letter³ to the Steven V. King, Executive Secretary, regarding the data request and the volume of information that would be required to respond to it. Mr. Finnigan stated, “The Company issues between 3,000 and 3,500 initial delinquent notices a month and between 1,300 and 1,700 disconnect notices a month. Even assuming on a low end of that range, that request alone is seeking over 73,000 records.” Mr. Finnigan went on to suggest the target date to produce the documents be moved to July 26, 2013.

Mr. Finnigan also went on to say that the company does not use a separate document to log escalated complaints. Instead, the company keeps customer notes of every interaction with each customer. To provide the commission a complaint and claims register, the company would need to run a report on all 17,000 customers.

Due to the large volume of information required to respond to the initial data request, staff amended its request to include the first three items for the months of April and May 2013 only. Staff also extended the due date until July 12, 2013.

Mr. Finnigan also sent a letter to Sharon Wallace, Assistant Director for Consumer Protection and Communications, on June 25, 2013, asking for guidance on the proper application of WAC 480-110-335, 345, and 355.⁴ Ms. Wallace’s response is attached and is referenced in this report.⁵

Company Response

Rainier View delivered six large paper boxes to the commission on July 10, 2013, which included a written response, a guide to the documents, and answers to questions four through seven. Two boxes contained delinquent notices sent to Rainier View customers in April and May 2013; two boxes contained disconnect notices sent to Rainier View customers in April and May 2013; and two boxes contained customer notes. In its letter to the commission, the company identified Sheila Haynes as the contact person at Rainier View for assistance with sorting out the documents.

Staff reviewed the documents and believes the company was nonresponsive to Item 1, which requested a copy of the company’s customer complaint register, listing all complaints and claims from Jan. 1, 2012, through May 31, 2013. The response to the request was two boxes of loose paper containing thousands of account notes that did not specifically identify escalated issues.

Using documents related to disconnections, staff randomly selected 20 customers who had experienced a service disconnection. Staff then contacted Ms. Haynes to provide all relevant documents related to the disconnections. Staff also asked Ms. Haynes if the company had any other documents related to escalated complaints, other than the two boxes of customer notes that contained all interactions with particular customers.

³ See Attachment C, June 25, 2013 Letter from Richard Finnigan to Steven V. King.

⁴ See Attachment D, Letter to Sharon Wallace from Richard Finnigan.

⁵ See Attachment E, Letter to Richard Finnigan from Sharon Wallace.

Initially, Ms. Haynes responded that Rainier View did not have a method of tracking escalated or unresolved complaints. When staff persisted, Ms. Haynes said the company did have a Customer Care Review Committee (CCRC) comprised of several higher-level staff. Ms. Haynes explained that this group performed reviews of unresolved complaints that were primarily usage/leak issues with unusual circumstances, or escalated issues that may fall out of the company’s normal operating procedure.

Ms. Haynes provided a copy of the CCRC log with entries dated Jan. 8, 2013, to June 26, 2013. Staff asked Ms. Haynes if the company also had a CCRC report for 2012. Ms. Haynes responded as follows: “Unfortunately, while the committee did meet to review usage/leak escalated issues we do not have a CCRC report for 2012. The issues and results of those reviews were only documented on the customer notes in our billing software. Staffing turnover in 2011 and 2012 limited resources available for extra documentation efforts.”

TECHNICAL ASSISTANCE

Previous Technical Assistance

Thirty-two commission-referred consumer complaints were filed against Rainier View in the past five years. Through the complaint process, commission staff provided technical assistance and recorded the following violations of commission rules:

Violations Recorded	Number of Violations
WAC 480-110-315(3) A company representative must respond to a customer who reports a service failure or emergency within twenty-four hours of the report.	1
WAC 480-110-335(9)(b) Termination of service. When service is terminated, the company must return to the customer the deposit amount plus accrued interest, less any amounts due the company by the customer.	1
WAC 480-110-345(2) A water company cannot permanently deny service to an applicant or customer because of a prior obligation to the company. A prior obligation is the dollar amount that has been billed to a customer but left unpaid at the time of disconnection of service for nonpayment.	1
WAC 480-110-355(1)(a) Customers wanting to discontinue service must notify the water company. The company must disconnect the service as requested by the customer.	21
WAC 480-110-355(3)(a)(i) Disconnection notices must include a delinquent date that is no less than eight business days after the date of personal delivery or mailing if mailed from inside the state of Washington or a delinquent date that is no less than eleven days if mailed from outside of the state of Washington.	4
WAC 480-110-355(3)(a)(ii) Disconnect notices must include all pertinent information about the reason for the disconnection notice and how to correct the problem.	16

WAC 480-110-355(3)(b)(ii) Mailed notice. The company must mail a second notice, which must include a deadline for compliance that is no less than three business days after the date of mailing if mailed from within the state of Washington or six days if mailed outside the state of Washington.	3
WAC 480-110-355(3)(c)(i) Disconnection notices must include detailed information pertinent to the situation.	9
WAC 480-110-355(5) Reconnecting water service after disconnection. The water company must restore disconnected service when the customer has paid, or the company has agreed to bill, any reconnection charge.	3
WAC 480-110-375(1)(a) Customer bills must be issued at intervals not to exceed three months and identify if the water company is billing in arrears or advance.	2
WAC 480-110-375(1)(b) Customer bills must show a reference to the applicable rate schedule.	1
WAC 480-110-375(1)(c) Customer bills must identify and show each separate charge as a line item.	2
WAC 480-110-375(1)(e) Customer bills must include enough information that, together with tariff rates, the customer can calculate the bill.	18
WAC 480-110-385(1)(e) The company must inform the complainant that the decision may be appealed to a higher level representative at the company.	1
WAC 480-110-385(3)(a) When the commission consumer affairs staff refers and informal complaint to the company, the company must investigate and report the results to the commission.	9
WAC 480-110-385(3)(b) The company must keep the commission consumer affairs staff informed of progress toward resolution and the final result.	13
WAC 480-110-385(4) Each water company must keep a record of all complaints concerning service or rates for at least one year, and upon request, make them readily available for commission review.	1
WAC 480-110-405(5) When a meter test reveals a meter error in excess of two percent the company must repair or replace the meter.	25
WAC 480-110-485(1) The company must retain all records and reports for three years, unless otherwise specified.	1
RCW 80.28.080 The company must bill rates applicable to such service as specified in its schedule filed and in effect at the time.	68

DEPOSITS

WAC 480-110-335(3)(d) states in part, that a company may require a deposit if two or more delinquency notices have been served on the applicant by any water company during the prior twelve months.

Mr. Finnigan's letter to Steven V. King, dated June 25, states, "The Company issues between 3,000 and 3,500 initial delinquent notices a month and between 1,300 and 1,700 disconnect notices a month." With 17,335 customers, Rainier View is sending delinquent notices each month to nearly 20 percent of its customers and disconnection notices to approximately 10 percent of its customers.

Recommendation

Staff recommends Rainier View collect deposits from consumers who have received more than two delinquent or disconnect notices in a 12-month period. The deposit may act as an incentive to pay timely for customers who habitually pay late.

DEPOSIT - RETURN

WAC 480-110-335(9)(b) provides, in part, when service is terminated the company must return to the customer the deposit amount plus accrued interest, less any amounts due the company by the customer.

Investigation

In the 20 disconnections reviewed by staff, the customer's service was not restored until a full payment of the past due charges was paid. Two of the accounts reviewed showed the customer had a \$60 deposit on file; however, Rainier View did not apply the deposits to the outstanding charges after service was disconnected.

Customer Bell paid a \$60 deposit on Feb. 28, 2013. Ms. Bell's water service was disconnected on May 14, 2013, for a past due amount of \$20.50. Ms. Bell's deposit was not applied to the past due balance and her service was not reconnected until she paid \$62, which included a \$20 reconnection fee, in violation of WAC 480-110-335(9)(b).

Customer Buza also had a \$60 deposit on file that was collected in 2011. When the service was disconnected on April 15, 2013, for a past due amount of \$23.53, Rainier View did not apply the deposit or any accrued interest to Mr. Buza's outstanding balance, in violation of WAC 480-110-335(9)(b).

Recommendation

Staff recommends a penalty of \$100 for each for the two violations of WAC 480-110-335(9)(b) related to the company's failure to apply any deposits on file, and accrued interest, to its customer's outstanding balance at the time of disconnection, for a total penalty of \$200. Future violations may result in additional penalties or other enforcement action.

DISCONTINUING SERVICE – COMPANY INITIATED

After receiving four boxes of disconnect notices and reminders, staff randomly selected 20 Rainier View customer accounts that were disconnected in April or May 2013. Staff asked Rainier View to provide all account histories and notes for the selected customer accounts.

WAC 480-110-355(3) requires water companies to notify customers before disconnecting service with limited exceptions, and outlines the process for serving disconnection notices and prescribes the notice content.

Investigation

Customer Satterwhite received only one written notice prior to disconnection; commission rules require two notices. Rainier View provided a disconnect notice dated May 3, 2013, for a past due balance of \$71.30, with a due date of May 9, 2013. The customer was subsequently disconnected on May 29, 2013, without further notice, in violation of WAC 480-110-355(3)(b)(ii).

Rainier View also disconnected Mr. Satterwhite's service more than ten days after the first day noted for disconnection on the May 3 notice, in violation of WAC 480-110-355(3)(c)(iii).

Recommendation

Staff recommends a penalty of \$100 for one violation of WAC 480-110-355(3)(b)(ii) related to the company's failure to issue a second disconnection notice as required by rule. Additionally, staff recommends an additional penalty of \$100 for one violation of WAC 480-110-355(3)(c)(iii) related to disconnecting a customer's service more than ten days after the first day noted for disconnection for a total penalty of \$200. Future violations may result in additional penalties or other enforcement action.

RECONNECTING SERVICE

WAC 480-110-355(5)(b) provides, in part, that a water company must restore disconnected service when the customer has paid, or the company agrees to bill, any reconnection charge and the customer pays all proper charges.

Investigation

Customer Reed's service was disconnected on April 17, 2013, for a past due balance of \$13.90. On April 22, 2013, the customer paid the current account balance of \$27.80. The customer contacted the company again on April 24, 2013, to have the water turned back on. Rainier View did not restore the customer's service until May 2, 2013, after receiving a second call from the customer, resulting in ten violations of WAC 480-110-355(5)(b).

Customer Smith was disconnected on April 17, 2013, for past due charges of \$18.65. Mr. Smith paid the current account balance of \$37.30 on April 26, 2013. From the account notes, it appears the customer's home was in foreclosure because he asked the company to put the bill in the bank's name. Rainier View denied his request, and billed a \$20 reconnection fee on May 20, 2013. Rainier View did not restore the service until May 23, 2013, resulting in three violations of WAC 480-110-355(5)(b).

Customer Drayer was disconnected on April 17, 2013, for past due charges of \$15. Ms. Drayer paid \$60.80 on April 18, 2013, which covered her past due charges and \$20 reconnection fee. Rainier View did not reconnect her service until April 24, 2013, resulting in six violations of WAC 480-110-355(5)(b).

Recommendation

Staff believes a delay in reconnecting three of the twenty customer accounts randomly reviewed is significant, and therefore recommends a penalty of \$100 each for 19 violations of WAC 480-110-355(5)(b), for a total of \$1,900, for delaying reconnection of water services. Rainier View has also received previous technical assistance in this area through the informal complaint process. Future violations of this rule may result in additional penalties or other enforcement action.

RECONNECTING SERVICE - PRIOR OBLIGATION

WAC 480-110-355(5)(c) states in part, that water service may be reconnected after the customer pays or the company has agreed to bill any reconnection charge and causes of disconnection are removed, or customer pays all proper charges, or any applicable deposit, as provided for in the company tariff, in accordance with WAC 480-110-335.

Rainier View's disconnect notice states, "If service is disconnected, water service will be restored **only** after payment in full, plus a reconnection charge of \$20 during normal business hours or \$30 after hours has been received."

Investigation

Customer Tillman's account notes show the customer was disconnected in Feb. 2013, for a past due amount of \$152.69. When Mr. Tillman called to restore service, the representative told him he would have to pay a minimum of \$152.69, plus the \$20 restoration fee. Staff found no evidence that Mr. Tillman was offered any other type of arrangement, including prior obligation with the option of paying a reconnection fee and deposit.

Customer Reed's account notes also show he was disconnected in July 2013, for a past due amount of \$142.20. When he contacted Rainier View to reconnect his service, he was also told that service could only be restored with a full payment of \$142.20 and a \$20 reconnection fee.

Rainier View does not include information on its reminder or disconnect notice about the option of restoring service under the rules outlined in WAC 480-110-355(5)(c). This rule is commonly known as the prior obligation rule, and allows customers the opportunity to restore service by paying a deposit, plus reconnection fee to restore service. Account notes show that Rainier View violates the prior obligation rule by failing to offer its customers any options other than paying the full amount of the past due charges plus a reconnection fee.

The letter from Sharon Wallace, Assistant Director for Consumer Protection (Attachment E), dated July 12, 2013, offers clarification and guidance regarding reconnection. The company must allow customers to pay a deposit to restore service, following a disconnection for nonpayment, if the customer chooses that option to reconnect service.

Recommendation

Staff recommends a penalty of \$100 each for two violations of WAC 480-110-355(5)(c), for a total of \$200, for failing to offer the two customers identified above the option of restoring service through the collection of a deposit and a reconnect charge. Rainier View also received technical assistance through commission's informal complaint 116842 on this issue.

Staff further recommends Rainier View add language to its disconnect notices that informs customers of the option to restore service under the prior obligation rule outlined in WAC 480-110-355(5)(c). Additionally, staff recommends that company representatives be trained on prior obligation rules found in WAC 480-110-355(5)(c), so they can offer proper options for reconnection to Rainier View customers. Future violations of this rule may result in additional penalties or other enforcement action.

FORM OF BILLS

Rainier View bills their customers monthly, in arrears. The bill is calculated using two components. The base rate, which is established using meter size, plus usage, which is based on the amount of water consumed. Rainier View mails their bills on the last day of the month and gives customers 15 days to pay the bill before it becomes past due on day 16 of the following month.

WAC 480-110-375(1) states in part, that customer bills must:

- (a) Be issued at intervals not to exceed three months and identify if the water company is billing in arrears or advance;
- (b) Show a reference to the applicable rate schedule;
- (c) Identify and show each separate charge as a line item;
- (d) Show the total amount of the bill;
- (e) Include enough information that, together with tariff rates, the customer can calculate his or her bill; and
- (f) Show the date the bill become delinquent if not paid.

Investigation

Staff used a bill copy provided by Rainier View and also reviewed bill copies found in informal consumer complaints. Rainier View bills their customers in arrears, and water bills are due and payable no later than fifteen days after they are issued. Customers have the option to pay in person, by mail, by drop box, or online using a credit or debit card.

Rainier View's Schedule 1 Residential Metered Rate Service identifies a base rate for each meter size, and then uses three different rate blocks to calculate the rates for water usage. Below is the current rate schedule, effective June 1, 2013, from the company's tariff:

Applicable:

To water service for residential, domestic consumption, where a meter is installed.

Meter Size	Base Rate	1st Block (cubic feet)	1st Usage Rate ¹	2nd Block (cubic feet)	2nd Usage Rate ¹	3rd Block (cubic feet)	3rd Usage Rate ¹
3/4-inch ²	\$13.90	0-600	\$0.94	601-3,000	\$1.00	Over 3,000	\$2.05
1-inch	\$17.75	0-1,500	\$0.94	1,501-7,500	\$1.00	Over 7,500	\$2.05
1 1/2-inch	\$46.40	0-3,000	\$0.94	3,001-15,000	\$1.00	Over 15,000	\$2.05
2-inch	\$74.20	0-4,800	\$0.94	4,801-24,000	\$1.00	Over 24,000	\$2.05
3-inch	\$139.00	0-9,000	\$0.94	9,001-45,000	\$1.00	Over 45,000	\$2.05
4-inch	\$231.70	0-15,000	\$0.94	15,001-75,000	\$1.00	Over 75,000	\$2.05
6-inch	\$463.40	0-30,000	\$0.94	30,001-150,000	\$1.00	Over 150,000	\$2.05

¹ - Based on per 100 cubic feet or fraction thereof.

² - or smaller

Staff found Rainier View's monthly bills do not provide a line item for each separate charge.⁶ While the amount of usage is displayed on the front of the bill and the rates currently in effect are displayed on the back, the company does not provide a line item for each separate charge. Calculating a Rainier View water bill is an arduous task, particularly if the usage is spread over several rate blocks. For instance, a customer using 3,100 cubic feet of water from a 3/4 inch meter would be billed \$45.59. Rainier View does not provide a calculation on the front of the bill to explain how that amount was calculated. The customer would have to calculate the usage as follows:

Base Rate: \$13.90

1st Block (0-600 cubic feet): \$0.94/100 cubic feet

2nd Block (601-3,000 cubic feet): \$1.00/100 cubic feet

3rd Block (3,001+ cubic feet): \$2.05/100 cubic feet

Customer usage: 3100 cubic feet

$\$13.90 + 600/100(\$0.94) + 2400/100(\$1.00) + 100/100(\$2.05) = \$45.59$

Recommendation

Staff recommends a penalty of \$100 for one violation of WAC 480-100-375(1), for failing to bill customers in a manner that clearly identifies rates and charges for water services. According to WAC 480-100-375(1) the bill must include enough information that, together with tariff rates, the customer can calculate his or her bill. Rainier View received technical assistance through the commission's informal complaint process in 2010, in complaint 108233. In 2013, staff provided additional technical assistance in informal complaints 116842 and 118557.

Staff recommends Rainier View modify its bills so that rates for water services are clearly identified, and shown as separate line items. Because Rainier View's water service is comprised

⁶ See Attachment F, Example of a customer's water bill.

of two or more components, the bill should identify each component separately. Future violations of this rule may result in additional penalties or other enforcement action.

RESPONSIBILITY FOR COMPLAINTS AND DISPUTES

WAC 480-110-385(4) states that each water company must keep a record of all complaints concerning service or rates for at least one year and, on request, make them readily available for commission review. The record must contain: (a) Complainant's name and address; (b) Date and nature of the complaint; (c) Action taken; and (d) Final result.

The commission's data included a request for a copy of the company's complaint register, listing all complaints and claims from Jan. 1, 2012, through May 31, 2013, including all documents related to each claim and how the issue was resolved. Rainier View initially responded that the company does not keep an individual document containing customer complaints, because all interactions with every customer are embedded within the customer account notes. The company went on to state, ". . . to provide a record of all complaints requires the company to run the report on all 17,000 customers. This report is estimated to be 8,000 pages long." The company then provided two paper boxes full of account notes with no indication of actual complaint data.

After staff addressed the issue with Sheila Haynes, Rainier View provided a copy of the CCRC log documenting escalated complaint issues reviewed by the company's customer care committee between Jan. 8, 2013, and June 26, 2013.

Findings

Staff believes that providing two boxes full of account notes in response to staff's data request failed to meet the requirements of WAC 480-110-385(4). Following staff's second request, the company was still unable to provide one full year of complaint data (including any data related to commission-referred consumer complaints), thus failing to provide a full year of documentation regarding complaints or claims.

Recommendation

Staff recommends that Rainier View document its customer complaints separately from customer account notes, and keep the information available for commission review for one year. Staff considers this investigation report the company's technical assistance regarding complaint records. Future violations may result in penalties or other enforcement action.

RATE DISCRIMINATION

RCW 80.28.100 states, in part, that "no water company may, directly or indirectly, collect or receive a greater or lesser compensation for water service, rendered or to be rendered, in connection therewith, than it charges, demands or collects from any other person."

Investigation

Rainier View's Tariff WN U-2, Sheet 12, Rule 16 states, "A service charge shall be applied to each account for each check returned unpaid for any reason by the bank upon which the check is drawn. The charge is \$10.00."

Customer Sauter's water service was disconnected after paying with a check that was returned

for due to non-sufficient funds. Rainier View did not charge the Mr. Sauter the \$10 NSF fee as identified in its tariff, in violation of RCW 80.28.100.

Customer Graham made a payment of \$30.75 with another person's credit card. The fraudulent payment to the account was charged back to Mr. Graham and Rainier View billed a \$10 NSF fee, although the transaction did not involve a returned check. This is also a violation of RCW 80.28.050, which requires companies to file all rates and charges in their tariff on file at the commission.

Findings

Staff found two violations of RCW 80.28.100 for billing the NSF fee identified in the company tariff incorrectly, and for failing to bill the \$10 NSF charge to a customer who wrote a non-sufficient check.

Recommendation

Rainier View may only bill the \$10 NSF fee according to its tariff; that is, when a payment made by check is returned for insufficient funds. Rainier View must consistently bill the fee to any customer who makes a payment with a NSF check.

If Rainier View wishes to bill a \$10 fee for other types of returned payments, staff recommends the company revise its tariff. Billing the \$10 NSF fee in any other circumstance, other than when a check is returned, violates RCW 80.28.100. Staff considers this investigation as the company's technical assistance regarding non-tariff charges. Future violations may result in penalties or other enforcement action.

SUMMARY OF RECOMMENDATIONS

Penalty

Staff typically recommends a “per violation” penalty against a regulated company where the violations result in serious consumer harm; for repeat violations of a rule after the company receives technical assistance; or for intentional violations of commission laws or rules. The commission has the authority to assess penalties of \$100 per violation, per day.⁷ The commission also has the authority to assess penalties of up to \$1,000 per violation, per day through a formal complaint process.⁸

In this investigation, staff documented 28 violations of commission laws and rules, and recommends penalties for 26 violations in four violation categories. Staff considered the following factors to determine the recommended penalty amount:

1. How serious or harmful the violations are to the public.

Customers identified in this report were not given the protections provided by the rules with respect to disconnection, reconnection and payment for reconnection. Disconnections were improper and customers were required to pay more than the rules allow to reconnect their water service. These business practices were harmful to the company’s customers.

2. Whether the violations are intentional.

The company has received technical assistance through the commission’s informal complaint process, and has continued to receive violations. Failure to follow guidance provided via technical assistance creates a presumption that the violations are intentional.

3. Whether the company self-reported the violations.

The company did not self-report any violations.

4. Whether the company was cooperative and responsive.

Staff believes the company was initially uncooperative by providing large volumes of loose paper that was largely non-responsive to the initial data request. After staff amended its data request and extended the due date, the company became cooperative and was responsive to additional requests for information.

5. Whether the company promptly corrected the violations.

To date, staff has not been informed of any correction of the violations.

⁷ RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company’s own tariff, or commission order.

⁸ RCW 80.04.380 allows the commission to assess a penalty of up to \$1,000 for each violation following a hearing.

6. The number of violations.

Staff has documented twenty-eight violations of WAC 480-110 and RCW after reviewing documents provided by Rainier View, including 20 randomly-sampled customers who experienced a disconnection.

7. The number of customers affected.

Rainier View has approximately 17,335 customers which are affected. All of them are affected by the form of bill violations, since Rainier View's monthly bills do not provide a line item for each separate charge. Additionally, a delay in reconnecting three of the twenty customer accounts randomly reviewed is significant, and represents that 15 percent or more of all disconnections may contain violations of law or rule.

8. The likelihood of recurrence.

Recurrence is likely, absent a comprehensive compliance plan. Rainier view has received extensive technical assistance through the commission's informal complaint process, yet has failed to correct violations brought to their attention through complaints.

9. The company's past performance regarding compliance, violations, and penalties.

Rainier View overall has a history of compliance, with the exception of a handful of informal complaints where violations were recorded. The company has never been assessed penalties.

10. The company's existing compliance program.

Staff is unaware of a compliance program in place at Rainier View.

Recommendation

Staff recommends a penalty assessment of \$100 per violation be issued against Rainier View for each of the following 26 violations, for a total of \$2,600:

- 2 violations of WAC 480-110-395(9)(b) for failure to apply any deposits on file, and accrued interest, to its customer's outstanding balance at the time of disconnection.
- 1 violation of WAC 480-110-335(3)(b)(ii) for failure to issue a second disconnection notice as required by rule.
- 1 violation of WAC 480-110-335(3)(c)(iii) related to disconnecting a customer's service more than ten days after the first day noted for disconnection on the company notice.
- 19 violations of WAC 480-110-355(5)(b) for delaying reconnection of water services.
- 2 violations of WAC 480-110-355(5)(c) for failing to offer the option of restoring service through the collection of a deposit and a reconnect charge.
- 1 violation of WAC 480-110-375(1) for failing to bill customers in a manner that clearly identifies rates and charges for water services.

Staff additionally recommends Rainier View closely review this report because it provides valuable technical assistance in areas that need improvement as follows:

- Rainier View may consider collecting a deposit from customers who routinely pay their water bills late and receive more than two delinquent or disconnect notices in a 12-month period.
- Rainier View may also consider making a change to its tariff to include non-sufficient electronic credit card, debit card, or other types of on-line payments.
- Rainier View must ensure their bills clearly identify and show each separate charge as a line item.
- Rainier View must keep, readily available for commission review, a copy of complaints or concerns regarding service or rates for at least one year.

ATTACHMENT A

Corporations Division - Registration Data Search

RAINIER VIEW WATER COMPANY, INC.

[Purchase Documents for this Corporation »](#)

UBI Number	601216959
Category	REG
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
WA Filing Date	12/04/1989
Expiration Date	12/31/2013
Inactive Date	
Duration	Perpetual
Registered Agent Information	
Agent Name	RICHARD A FINNIGAN
Address	2112 BLACK LAKE BLVD SW
City	OLYMPIA
State	WA
ZIP	98512
Special Address Information	
Address	
City	
State	
Zip	

Governing Persons

Title	Name	Address
President,Treasurer,Chairman	RICHARDSON , NEIL	TACOMA , WA
Vice President,Secretary	RICHARDSON , PAULA	TACOMA , WA

[Purchase Documents for this Corporation »](#)

Washington State Department of Revenue State Business Records Database Detail

TAX REGISTRATION NO: 601216959 ACCOUNT OPENED: 12/04/1989
UBI: 601216959 ACCOUNT CLOSED: OPEN
ENTITY NAME: RAINIER VIEW WATER COMPANY INC
BUSINESS NAME:

MAILING ADDRESS:
PO BOX 44427
TACOMA, WA 98448-0427

BUSINESS LOCATION:
PO BOX 44427
TACOMA, WA 98448-0427

ENTITY TYPE: CORPORATION

RESELLER PERMIT NO: A27681417

PERMIT EFFECTIVE: 02/22/2013

PERMIT EXPIRES: 02/21/2017

NAICS CODE: 221310

NAICS DEFINITION: WATER SUPPLY AND
IRRIGATION SYSTEMS (PT)

FOR NON-COMMERCIAL USE ONLY

ATTACHMENT B



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

June 19, 2013

Rainier View Water Company, Inc.
Attn: Bob Blackman
PO Box 44427
Tacoma, WA 98448

Re: Data Request

Dear Mr. Blackburn:

Under Washington State law (Revised Code of Washington 80.04.070), the Utilities and Transportation Commission has the right to inspect the accounts, books, papers and documents of any water company doing business in this state.

As part of a staff review of your water company's business practices, please send us the following information and documents:

1. A copy of the company's customer complaint register, listing ALL complaints and claims from January 1, 2012, through May 31, 2013. Include all documents related to each complaint or claim and how the issue was resolved.
2. A copy of every disconnect notice mailed between January 1, 2012, and May 31, 2013.
3. A list of each disconnection performed between January 1, 2012, and May 31, 2013, including:
 - (a) Date of the disconnect notice(s).
 - (b) Date service was disconnected.
 - (c) Reason for disconnection.
 - (d) Amount paid by the customer to restore service.
 - (e) Date service restored.
4. A copy of each customer's bill assessing a late fee.
5. A copy of the company's consumer guide and the company's delivery schedule for the guide.

Rainier View Water Company, Inc.

June 19, 2013

Page 2

6. A current count of all customers and/or connections.
7. A current example of the company's billing statement, front and back.

You are required to furnish the above requested documents to commission staff by 5:00 p.m. on July 1, 2013. Please attach a copy of this letter to the documents for reference.

If you have any questions you may contact Lynda Holloway, Compliance Investigator. Ms. Holloway can be reached at (360) 664-1129 or by email at lholloway@utc.wa.gov.

Sincerely,



Steven V. King
Acting Executive Director and Secretary

ATTACHMENT C

Law Office of
Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, Washington 98512
Fax (360) 587-3852

Richard A. Finnigan
(360) 956-7001
rickfinn@localaccess.com

Candace Shofstall
Legal Assistant
(360) 753-7012
candaces@localaccess.com

June 25, 2013

VIA E-MAIL

Mr. Steven V. King, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Data Request to Rainier View Water Company, Inc.

Dear Mr. King:

By letter dated June 19, 2013, the Commission issued a Data Request to Rainier View Water Company, Inc. (the Company). The letter cites RCW 80.04.070 as authority for the request. By issuing this request, the Commission may not have been aware of the volume of information that was requested.

For example, there is a request for "A copy of every disconnect notice mailed between January 1, 2012, and May 31, 2013." The Company issues between 3,000 and 3,500 initial delinquent notices a month and between 1,300 and 1,700 disconnect notices a month. Even assuming on the low end of that range, that request alone is seeking over 73,000 records.

The Company notes that under RCW 80.04.070, the Commission's statutory authority is to "inspect" the accounts, books, papers and documents of a water company. There is no authority to require production of these records. This distinction is underscored by the language of RCW 80.04.100 which allows the Commission to require the production of out-of-state records. By contrasting the two statutes, it is clear the Commission's authority is to inspect, but may not require production, of in-state records.

Despite this lack of statutory authority, the Company is willing to produce the type of records requested. However, the Company has two suggestions to make the production reasonable. The first is that the length of time to be covered by the request be shortened by a great deal. The second is that more time be given to produce the record.

On timing, the letter of June, 19, 2013, says that the Company is "required" to furnish the documents by 5:00 p.m. on July 1, 2013. There is no authority stated for that requirement. And, it does not appear that there is any authority for such a requirement. In that light, the Company

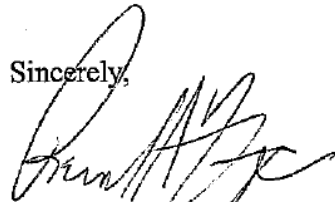
Steven V. King
June 25, 2013
Page 2 of 2

respectfully requests that there be additional time to provide the information that is sought.

As noted above, despite the deficiencies in the request and despite the great amount of work that will be required to produce the information that is requested, the Company is willing to do so. However, the Company suggests that the request be limited to January 1, 2013 through May 31, 2103. Further, the Company suggests that the target date for production be July 26, 2013.

Thank you for your attention to this matter.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs

cc: Lynda Holloway (via e-mail)
Clients (via e-mail)

ATTACHMENT D

Law Office of
Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, Washington 98512
Fax (360) 587-3852

Richard A. Finnigan
(360) 956-7001
rickfinn@localaccess.com

Candace Shofstall
Legal Assistant
(360) 753-7012
candaces@localaccess.com

June 25, 2013

Ms. Sharon Wallace, Assistant Director
Consumer Protection
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Discontinuance of Service Issues

Dear Sharon:

The staff of Rainier View would like to arrange a meeting with you and the members of your Staff you deem appropriate to discuss issues concerning discontinuance of service and deposit rules. In addition, Rainier View's staff would like some guidance on proper application of WAC 480-110-335, 345 and 355.

The first issue that Rainier View staff would like to discuss with Commission Staff is the application of WAC 480-110-355(5). Recently, Commission Staff has instructed the Company that it must accept a deposit in all circumstances. However, the WAC is written in the disjunctive, making the choices separate options. For example, the customer decides to pay the past due bill rather than making a deposit. That did occur in a recent case, yet Commission Staff said that the payment had to be treated as a deposit, even though the customer clearly paid the past due bill. Rainier View would like clarification as to why Commission Staff takes the position that a payment must be treated as a deposit.

Under WAC 480-110-335, there are detailed rules concerning deposits. The rule covers the amount of the deposit, when the company may require a deposit, interest calculations, refunds, etc. However, the rule does not cover application of the deposit. Rainier View staff would like to understand Commission Staff's view as to the proper application of a deposit that has been accepted from a customer. The application of a deposit becomes especially confusing where a customer has paid fifty percent of the deposit and then becomes delinquent the next month. In such a case, the customer has not paid the second installment of the deposit and is delinquent on the bill. How is the one-half deposit that has been received to be applied? What is the calculation of a new deposit in those circumstances if the customer asks to establish a new deposit? How many times can this occur: making one-half the deposit, not pay the next bill and second deposit installment and then wanting to pay one-half of a new deposit to stay in service?

Sharon Wallace
June 25, 2013
Page 2 of 2

Another area of confusion is whose choice is it to accept a deposit? Under WAC 480-110-355(5), it is clear that there are three ways in which reconnection can occur. However, under WAC 480-110-355 it implies that it is the company's choice to accept a deposit in lieu of payment of the full balance past due. See the language of WAC 480-110-335(3) that discusses the company requiring a deposit. Where in the rules is it required, particularly in light of the language of WAC 480-110-335(3), that a company must accept a deposit if offered by a customer?

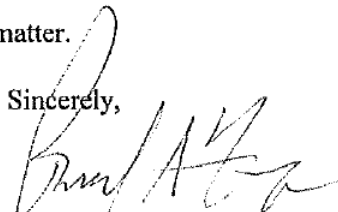
Another source of confusion is in the mailing of the disconnection notice. Under WAC 480-110-355(3)(a), the preferred method of delivery for a notice, at least as implied by the rule, is by mail. However, recently Commission Staff has told the Company staff that it is the Company's obligation to ensure that the mail is delivered. That language does not appear in the rule. In addition, it would seem logical that the reason for a second notice, at least in part, is if the first notice is delivered to the post office, but is not timely delivered by the post office to the customer. Could you help the Company understand why Staff is taking the position that it is the Company's obligation to "ensure" delivery of the mailed notice.

Another area of discussion is the language in WAC 480-110-345(2). This rule says that the company "cannot permanently deny service to an applicant or a customer because of a prior obligation to the company." The question is what is meant by "permanently deny service." By use of the word "permanently," it implies that temporary denial of service is permissible. It seems logical that the temporary denial of service would be when a customer is disconnected for nonpayment and the company has requested payment and the customer refuses, but offers to make a deposit. It would seem logical under the way the rules are constructed that that is the company's choice; i.e., the company does not have to accept the deposit and can put in place a temporary denial of service. Otherwise, the use of the term "permanently" does not have any meaning.

The staff of Rainier View and I look forward to discussing these issues with you. Please let us know what is an acceptable set of alternative dates to meet. If you would like, we can hold the meeting at Rainier View and give you and your staff a tour of Rainier View facilities. Or, if you prefer, we would be happy to meet at the Commission offices.

Thank you for your attention to this matter.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs
Enclosure

cc: Clients (via e-mail)

ATTACHMENT E



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

July 12, 2013

Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, WA 98512

Dear Mr. Finnigan:

Thank you for the letter you sent on behalf of your client, Rainier View Water Company, Inc., dated June 25, 2013. I will address the concerns you raised in the order in which you presented them.

First, you addressed a recent consumer complaint where you believe staff said the customer's payment to restore service "had to be treated as a deposit." In consumer complaint 116842, staff recorded three violations of WAC 480-110-355(5) because the company sent three disconnect notices containing the following language: "If service is disconnected, water service will be restored only after payment in full." Staff advised the company that it should have given the customer the option to pay one-half of a deposit, plus a reconnection fee to restore her service. The violation was recorded because the company required payment in full; the refusal of service rules preclude the company from imposing that requirement.

WAC 480-110-345(2) provides that a company cannot "permanently deny service to a ... customer because of a prior obligation to the company. A prior obligation is the dollar amount that has been billed to a customer but left unpaid at the time of disconnection of service for nonpayment." WAC 480-110-355(5) provides that the company must restore service when the customer pays all proper charges or pays any applicable deposit. Read together, these rules require the company to provide a disconnected customer with two options: pay the past due amount, or pay a deposit (with payment arrangements), plus any reconnection fee. Because the company is prohibited by WAC 480-110-345(2) from denying service to a customer who does not pay the past due balance in full, WAC 480-110-355 should be interpreted as written in the disjunctive as it relates to customers, not the company.

Second, you asked a question about applying deposits to delinquent accounts: if a customer has made the initial payment of one-half the deposit amount and the account becomes delinquent again, the company should proceed as it would with any delinquent account and begin the disconnection process. Once the customer is disconnected, the deposit on file should be applied

Richard Finnigan
July 12, 2013
Page 2

to the delinquent charges. The rule does not specify a limit on the number of times this may occur.

Next, you referenced WAC 480-110-335(3) and asked whether the rules require a company to accept a customer's deposit. As noted above, the company must allow customers to pay a deposit to restore service following disconnection for nonpayment if the customer chooses that option to reconnect service.

Fourth, you asked about mailing disconnection notices. In consumer complaint 116842, staff asked the company why it did not ensure that the customer received certain bills and notices. The company responded that it is not within its control to ensure that customers receive all bills and notices, which is a reasonable response. What staff did not find reasonable was that the company did not appear to make any effort to contact the customer when her bills and notices were returned as "undeliverable" by the post office. The company responded by saying it does "not have the resources to personally contact the customers given the volume of returned mail." By virtue of the fact that the mail was returned, however, the company knew the customer did not receive notice of the disconnection, and therefore should not have proceeded until proper notice was delivered.

Finally, you asked for clarification about the use of the word "permanently" in WAC 480-110-345(2). Here, "permanently" means the company cannot continue to refuse service because the customer cannot or will not pay the amount that was billed but not paid at the time of disconnection for nonpayment. The options for reconnection described in WAC 480-110-355(5) must be available to the customer. Service can temporarily be denied for non-payment, but must be restored if the customer pays one-half of the deposit and a reconnection fee. Again, because WAC 480-110-345(2) states that the company cannot refuse to restore service for an unpaid past due balance, and WAC 480-110-355(5) provides the customer with the option of paying a deposit or the past due balance to restore service, the choice belongs to the customer, not the company.

I will also add that I, in addition to Rayne Pearson, the Consumer Protection Manager, and Complaint Investigator Rachel Stark, personally provided detailed technical assistance on these matters in a Feb. 20 telephone call with Carol Hellickson and Bob Blackman from the company. I hope this letter provides you with the clarification you were seeking.

Sincerely,



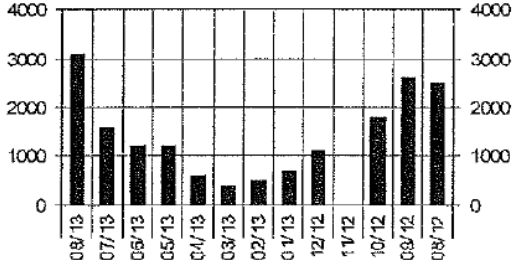
Sharon Wallace, Assistant Director
Consumer Protection and Communications

ATTACHMENT F

RATE/ CODE	STATEMENT DATE	METER NUMBER	PREV. DATE	PRES. DATE	PREV. READ	PRES. READ	MULT.	WATER (USAGE)	AMOUNT
1106	09/01/2013	██████████	07/10/2013	08/22/2013	50	81	100	3100	

Service Units 1.0000
 Pressure Zone - SOUTHWOOD

WATER 45.59



TOTAL 45.59

Account Balance	
Balance as of last billing	29.54
Billing Adjustments	.00
Payment Adjustments	.00
Thank you for your payment	-29.54
PREVIOUS BALANCE	.00
Current Bill Charges	45.59
Total Amount Due	45.59

PLEASE SEE OUR WEB SITE @ RAINIerviewwater.com FOR ONLINE PAYMENT/STATEMENT OPTION.

ACCOUNT NUMBER
 ██████████



Mail: P. O. Box 44427 • Tacoma • WA • 98446 | Physical: 5410 185th St. E. • Puyallup • WA • 98375 | Phone: 253-537-6634 or 1-888-490-3741

----- Detach and return this portion with payment in envelope provided. Do not send cash. -----

*

ACCOUNT NUMBER:
 ██████████

CURRENT DUE	45.59
PAST DUE	.00
TOTAL DUE	45.59

SERVICE ADDRESS:
 23514 87TH AVE E

AMOUNT ENCLOSED \$

CURRENT BILL DUE DATE:
 09/16/2013

Rainier View Water Co.
 PO Box 35006
 Seattle, WA 98124-3406

██████████
 ██████████
 ██████████ WA 98338