

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Rulemaking To
Modify Existing Consumer Protection and
Meter Rules To Include Advanced
Metering Infrastructure

DOCKET U-180525

SECOND COMMENTS OF THE ENERGY PROJECT

January 31, 2019

I. INTRODUCTION

1 The Energy Project (TEP) files these comments in response to the CR 101 and the Commission's Notice of Opportunity To File Written Comments, dated December 21, 2018. The Energy Project filed Initial Comments on September 7, 2018, regarding the implications of Advanced Metering Infrastructure (AMI) for Washington's current customer protections. These Second Comments respond more specifically to particular aspects of the informal draft rules and to some of the questions in the December 21 Notice, particularly regarding remote disconnection. We do not repeat the detailed discussion in the Initial Comments, but respectfully refer the Commission to that discussion for reference in support of the points raised in this round.

**II. COMMENTS REGARDING INFORMAL DRAFT RULES ON REMOTE
DISCONNECTION**

A. Overview.

2 The Energy Project supports and applauds the Commission's effort in the draft rules to address one of the central consumer protection questions created by the adoption of AMI technology --- the impact on customers of the new ability to remotely disconnect utility service. The Energy Project generally supports the Commission's new proposed rule on remote

disconnection,¹ but believes that it should go further toward preserving the current practice of the service address or “premise visit,” as discussed below.²

3 The Energy Project supports the adoption of a reasonable limit on the number of remote disconnections in a 24-hour period to help ensure that unauthorized disconnections do not occur.³ The Energy Project also supports the adoption in the informal rule of a restriction on disconnections for non-payment to the hours of 8 AM to noon,⁴ as discussed in our Initial Comments. This measure gives customers a better opportunity to resolve delinquency issues and get service restored the same day.

B. The “Premise Visit” Requirement Should Be Broadly Preserved.

1. The premise visit is the status quo for most customers in Washington.

4 The Energy Project is not recommending in these comments that remote disconnection be prohibited but that a utility’s deployment of AMI meters should not cause any erosion of existing customer protections. One of those long-standing protections is the “last knock” on the day of service termination. The Commission’s existing rules have long recognized the value of the premise visit in preventing disconnection. Current law, in WAC 480-100-128 (6)(k), provides

¹ Informal Draft Rule WAC 480-100-128(6). TEP notes, and supports, that the informal draft rules do not permit remote disconnection of natural gas service. Informal Draft Rule 480-90-128(6). Accordingly, these comments are focused on issues related to remote disconnection of electric service.

² The Commission has not yet ruled on the prudence of AMI deployment in Washington and that issue remains an open question. The Energy Project’s comments in this docket do not constitute a waiver of any issue(s) that TEP may wish to raise in any future AMI prudence proceedings.

³ Informal Draft Rule WAC 480-100-128(6)(a).

⁴ Informal Draft Rule WAC 480-100-128(6)(b).

that:

A utility representative dispatched to disconnect service *must accept payment of a delinquent account at the service address*, but will not be required to give change for cash in excess of the amount due and owing. The utility must credit any overpayment to the customer's account. The utility may charge a fee for the disconnection visit to the service address if provided for in the utility's tariff [.] (emphasis added).

5 This rule reflects that, absent an AMI meter, a utility representative must visit the service address to disconnect service. It also reflects the long experience of companies that many customers will try to find a way to pay delinquent amounts at that point to “keep the lights and heat on.” It sanctions and encourages this path to avoiding loss of service. This practice has been in place for many decades and is still the status quo for most residential customers of Washington regulated utilities. This provision is retained in the informal draft rules for all disconnections that are not performed remotely.⁵

6 The informal draft rules have also taken a significant positive step in recognizing the value of the premise visit where remote disconnections occur, preserving the visit as a requirement for two categories of customers: medical certificates, and bill assistance recipients.⁶ While these are certainly positive additions to the rule, the Energy Project does not believe they go far enough. The Energy Project continues to recommend that premise visits be required for all disconnections for non-payment.⁷ There are at least two compelling reasons in favor of

⁵ Informal Draft Rule WAC 480-100-128(4)(i).

⁶ Informal Draft Rule WAC 480-100-128(6)(c) and (d).

⁷ A service technician would not need to conduct the visit for a remote disconnection. The utility representative could be an employee with more relevant experience in delinquency and disconnection rules and background with available programs, such as utility bill assistance, to ensure vulnerable customers are aware of relevant programs or services.

retaining this requirement: (1) achieving materially significant reductions in disconnection; and (2) providing a key opportunity to identify and address customer problems.

2. Company data offers proof that premise visits prevent disconnection.

7 Essentially all the available evidence to date establishes that the premise visit is highly effective in preventing disconnection and generating payment of delinquent amounts owed to the company. The Energy Project and Public Counsel Initial Comments both cited the data gathered in the Commission's 2013 proceeding showing the effectiveness of the premise visit.⁸ Staff's summary of the 2013 data from companies stated, "it appears that accepting cash at the service address reduces the number of disconnections for non-payment by as much as 40 percent."⁹ The Commission concluded in the 2013 inquiry that "WAC 480-100-128(6)(k) provides electric utility customers a last chance opportunity to bring delinquent accounts current and avoid disconnection. Requiring workers in the field to accept payment is an important protection for the utility's most vulnerable customers."¹⁰

8 Data provided by utilities in this rulemaking continues to support this conclusion. The Commission asked utilities to provide data regarding the percentage of disconnection visits that result in the customer making a payment to stop the impending disconnection.¹¹ Highlights of

⁸ TEP Initial Comments, ¶ 28; Public Counsel Initial Comments, ¶ 45.

⁹ TEP Initial Comments, ¶ 28.

¹⁰ *Id.*, ¶ 29.

¹¹ Commission Notice Of Opportunity To File Written Comments, July 10, 2018, Question 10.

this data are as follows:

- PSE issued 376,821 disconnect notices in 2017, and made premise visits to 31 percent (about 116,814 disconnect visits). Among those disconnect visits, 33 percent of customers made payments to avoid disconnection (about 38,548 customers).¹²
- Northwest Natural provided data for 2017, stating that 24 percent of residential customers made payments to a service technician to avoid disconnection, and almost twice as many commercial customers did so, about 47 percent.¹³
- Avista indicates that the company's current rate is about 13 percent of customers who make payments during a disconnection visit to avoid disconnection.¹⁴
- Cascade did not provide any data or description of customer payments made during disconnect visits.¹⁵
- PacifiCorp indicated the company is not providing customers with the option of making payments during a premise visit, as discussed more fully below.¹⁶

The data provided by PSE, Avista, and NW Natural shows that tens of thousands of Washington customers are able to avoid disconnection of service each year as a result of the opportunity to make a payment to the utility representative during a disconnect visit. As a result of this key consumer protection utility service is preserved, the harm of a utility disconnection is prevented, and the utility gains revenues while also avoiding administrative and collections expense.¹⁷

¹² Comments of Puget Sound Energy, September 7, 2018, p. 8.

¹³ Comments of Northwest Natural Gas, September 7, 2018, p. 2.

¹⁴ Comments of Avista Corp., September 7, 2018, p. 10.

¹⁵ Comments of Cascade Natural Gas, September 7, 2018, p. 5.

¹⁶ Comments of Pacific Power, September 7, 2018, p. 9.

¹⁷ The existing ruled have long permitted a tariffed fee to be charged and that would be continued.

The Energy Project is concerned that, while somewhat helpful, the company data provided in this docket is not as comprehensive as it could be. Cascade did not provide the requested data.¹⁸ Avista's data appears to differ significantly from the 2013 report.¹⁹ Pacific Power's response, stating "the company does not provide a field payment option directly to company employees for safety reasons"²⁰ raises some questions. The stated practice appears contrary to WAC 480-100-128(6)(k). Given that the utility's 2013 request for a waiver of this rule on safety grounds was rejected by the Commission,²¹ further investigation of this matter by Commission Staff appears warranted.

The Energy Project believes it would be beneficial for the Commission or its Staff to issue a formal information request to all five utilities for the same quality of data that the utilities provided in the 2013 inquiry.²² Examination of improved data regarding disconnections, notices, and timing and location of customer payments, would help inform the Commission's understanding of customers vulnerable to disconnection, as it considers potential rule modifications for deployment of AMI. Such data would also help with understanding any trends over time.

¹⁸ The Energy Project understands that Cascade is not planning to deploy AMI, and under the proposed rule would not be allowed to remotely disconnect its customers. However, Cascade's data regarding payment at the time of the premise visit would be relevant and useful for a complete picture. The company provided data in the prior rulemaking.

¹⁹ In 2013, Avista data showed that the company "disconnects an average of two customers for every one who pays at the door." The Energy Project Initial Comments, ¶ 28. As noted, Avista currently reports that 13 percent of customers pay at the door during disconnection visits. Comments of Avista, September 7, 2018, p. 10.

²⁰ Comments of Pacific Power, September 7, 2018, at p. 9.

²¹ *In the Matter of the Petition of PACIFICORP d/b/a PACIFIC POWER AND LIGHT COMPANY, Petitioner, Seeking Exemption from the Provisions of WAC 480-100-128(6)(k) Relating to Accepting Payment from Customers at Disconnection Service Address*, Docket UE-130545, Order 01, Denying Exemption from Rule, (September 12, 2013), at ¶ 17.

²² Docket U-131087, Industry Data Request, July 1, 2013. The request was issued pursuant to RCW 80.04.090 and requested ten categories of data for the most recent five years.

3. Premise visits advance universal service and other important policy goals.

11

The premise visit also provides a unique opportunity for the Company to learn about the customer's situation and thereby identify whether there are conditions that can be addressed. These may include customers with medical conditions, elderly, non-English speaking, or other customers who are not aware of the impending shutdown, and customers who are unaware of available assistance resources. In addition, as noted above, in a high percentage of cases the visit will identify customers who are able to make a payment to keep service. There is no real substitute for this in-person contact with the customer.

12

It is an unfortunate fact that the majority of eligible low-income customers in Washington do not take advantage of bill assistance programs that could help them stay connected to essential services, despite multiple types of outreach. For example, only about 13-14 percent of PSE's eligible customers participate in the HELP bill assistance program, leaving over 200,000 customers outside the system. Under the proposed rules, once PSE deploys AMI, these customers will not receive a premise visit if they faced disconnection.²³ It is a priority of the Commission, the utilities, customer advocates, and assistance agencies to expand the reach of bill assistance programs. A premise visit to a household that is struggling to pay utility bills provides an opportunity to connect more customers to assistance services. Limiting the premise visit only to those customers who already participate misses this valuable opportunity.

13

In a similar vein, a premise visit is an important opportunity to identify households where customers face serious medical conditions or are elderly. The informal draft rules recognize the

²³ This data is based on the 2014/2015 information provided in the PSE 2017 GRC, Dockets UE-170033/UG-170034, Revised Response Testimony of Shawn Collins, Exh. SMC-1Tr at 3:3-10.
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vulnerability of these customers by prohibiting remote disconnection entirely for hospitals and nursing homes.²⁴ While this is a positive aspect of the draft rules, seniors and persons with medical conditions who are not in these institutions will not benefit from this prohibition and also will not have premise visits under the current draft once they have an AMI meter installed. The premise visit will allow the company to identify and assist those customers who for a range of reasons are not aware of the impending disconnection, or not aware of available assistance.

14 The fact that AMI meters make remote disconnection possible should not by definition require that customers lose any existing protections. Progressive discontinuation of premise visits as AMI is deployed is a tangible removal of current customer protections. The nature of the technology should not dictate the public policy choice nor create unnecessary disparities between customers depending upon where they reside in the state. When the data demonstrates that substantial percentages of disconnections are prevented as a result of the premise visit, generating revenue for the company, discontinuation of the policy must meet a very high burden proof.

C. The Notice of No Premise Visit Creates Potential Confusion.

15 The Energy Project has concerns about the new proposed WAC 480-100-128(4)(b)(iv), which requires a disconnection notice to inform the customer that they will not receive a premise visit. As noted above, TEP very strongly supports retention of the premise visit for all disconnections. Continuation of premise visits would negate the need for this statement to be included in the disconnection notice. Secondly, even if premise visits are not required in all cases, this statement is potentially confusing. The notice language would need to be modified to

²⁴ Informal Draft Rule 480-100-128(4)(k)(iii).
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be consistent with the proposed rules, which require premise visits for AMI equipped homes with medical certificates, or for bill assistance recipients. As currently worded, the required statement would be incomplete and misleading to some customers. There seems to be potential for administrative burden and error during the extended transition periods when part of a company system has AMI and part does not. Continuing the current premise visit requirement in all cases would be simpler from an administrative perspective and less confusing for customers.

D. Payment Agencies Are An Important Option For Customers.

16 It is important to maintain the availability of payment agencies to provide customer with an alternative way to pay to restore service. Customers who can only pay with cash, or who do not have bank accounts need this option. The 2013 inquiry also examined the availability of pay stations in utility service territory, including those that do not charge additional fees, finding that many customers make payments at such pay stations to avoid disconnection.²⁵ This rulemaking provides an opportunity for the Commission to gather updated information regarding the availability of pay stations for customers, as part of the information request recommended above.

III. COMMENTS ON PREPAID SERVICE

17 The Energy Project’s Initial Comments articulated our very strong concerns with prepaid service as circumventing critical consumer protections. The Energy Project recommended, therefore, that the Commission prohibit the use of prepaid service by regulated utilities.²⁶ We reiterate those concerns here. Other stakeholders also voiced serious concerns with prepaid service. Northwest Energy Coalition (NWECC’s) comments state in part: “The Coalition

²⁵ TEP Initial Comments, ¶ 33.

²⁶ TEP Initial Comments, ¶¶ 2-17.

approaches any discussion of prepay programs with strong caution and concern. Prepay programs have real, negative consequences for low-income customers.”²⁷ Similarly, Public Counsel explained that prepay programs are likely to strip consumers of necessary protections, and are not favorable to consumers.²⁸

18 The Energy Project is pleased that most utilities indicated they have no current plans to offer a prepaid service program. Avista and PacifiCorp indicated they had no plans to offer prepaid services, and Northwest Natural Gas states the company has not undertaken any evaluations regarding how or whether prepaid services may be offered.²⁹ Cascade stated that its system does not meet the Commission’s definition of AMI, and that questions regarding prepaid services were not applicable to the Company’s current or future plans.³⁰

19 Puget Sound Energy was the only utility to expressly indicate that prepaid service was under consideration. Puget Sound Energy’s comments include a statement that the company is considering prepaid service pilots “to test whether two common applications for this service could work in PSE’s service territory”³¹ but does not describe the specific applications. The company further states its intention to work collaboratively with Community Action agencies to examine individual disconnect notices to help determine eligibility for low income assistance. While we appreciate PSE’s stated commitment to work collaboratively with stakeholders, TEP continues to believe that prepaid service has serious negative consequences for customers and is poor public policy.

²⁷ Comments of Northwest Energy Coalition, September 7, 2018, p. 3.

²⁸ Public Counsel Initial Comments, ¶ 41.

²⁹ Matrix prepared by Commission Staff of Comments filed as of September 10, 2018, pp. 10-11.

³⁰ *Id.* p. 11.

³¹ Comments of Puget Sound Energy, September, 7, 2018, at p. 6.

20 The Energy Project continues to recommend that the Commission prohibit prepaid service. If the Commission does not develop a specific rule prohibiting prepaid service, we encourage the Commission to consider providing guidance or language in any rule adoption order expressing concerns with prepaid service and disfavoring introduction of prepaid service programs.

IV. PRIVACY

21 The Energy Project supports the draft rules on privacy of utility customer information. As noted in our Initial Comments, low-income customers are particularly vulnerable to loss of information privacy.³² The draft rules do a good job of building on the existing protections in the Commission rules for personally identifiable information, while adding provisions that comprehensively address important issues including: limitations on collection and retention, prohibition on sale or disclosure, requirement of prior permission, customer right of access. Allowing for the use of aggregated data, without impairing customer privacy, is also a benefit of the proposal. This evolution of the Commission privacy rules reflects the changing environment for electronic information, and the dramatically increased risk of privacy breaches faced by consumers. These proposed rules provide a stronger framework to meet the need for added protection in this area.

³² TEP Initial Comments, ¶ 38.
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V. COMMENTS IN RESPONSE TO ADDITIONAL NOTICE QUESTIONS

A. Notice Question 7 – Temperature-based shut off restrictions.

22

The Energy Project supports Public Counsel’s recommendation for limiting disconnections on days that are forecast to be 32 degrees Fahrenheit or colder. A number of states have temperature-based restrictions in place using 32 degrees as the relevant metric.³³ The leading advantage of adopting such a restriction is the protection of the life and health of members of the customer household. Health risks of cold weather are significantly increased among the elderly and infants. Another advantage of limiting disconnection in cold weather is avoiding damage to the dwelling unit. Frozen and ruptured water pipes can cause extensive damage after temperatures increase which is expensive to repair, placing further strains on the household budget. In rental units, these costs may fall on property owners in addition to tenants. In terms of disadvantages, there may be some administrative challenges arising from the need to coordinate company operations with weather forecasts and to modify disconnection procedures

B. Notice Question 8 – Time of Day Limitations.

23

The Energy Project supports the draft rule limiting remote disconnections to the morning hours, between 8 AM and noon. As discussed in our Initial Comments, this provides customers with the opportunity to have their utility service restored on the same day. Retaining the

³³ Access to Utility Service, National Consumer Law Center, Sixth Edition (2018), §6.3.2

morning shut-off window synchronizes well with the new rule requiring the utility to restore service within four hours where an AMI meter is installed.³⁴

24 The proposed time of day rule is consistent with the policy behind the existing prohibition on Saturday, Sunday, and holiday disconnections.³⁵ In both cases, the goal is to allow customers to act promptly to take action to have energy service restored the same day or the next day.

VI. CONCLUSION

25 The Energy Project respectfully requests consideration of these comments. Remote disconnection, prepayment, and data privacy are issues of major importance for low-income utility customers. Two issues are of particular significance – the need to continue the “last knock” rule requiring premise visits at the time of disconnection, and the need to prohibit introduction of prepaid utility service in Washington. The Energy Project looks forward to working with the Commission and other stakeholders in the future as this important rulemaking docket moves forward.

³⁴ Informal Draft Rule 480-100-133(c).

³⁵ WAC 480-100-128(6)(j).