

Agenda Date: March 24, 2022
Item Number: A1

Docket: U-200281

Staff: Andrew Roberts, Regulatory Analyst
Andrew Sellards, Regulatory Analyst
Bridgit Feeser, Assistant Director of Consumer Protection

Recommendation

Issue an order:

1. Granting an exemption from WAC 480-100-113 and WAC 480-90-113 related to residential services deposit requirements, which authorize electric and gas companies¹ to collect a deposit from residential customers if the utility has sent three or more delinquency notices to the customer or disconnected a customer's service. These exemptions will continue until 30 days after the Commission issues its Order Adopting Rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800.
2. Extending the March 30, 2022, expiration date of the current Third Revised Term Sheet COVID-19 Response, Section C-Fees, adopted by the Commission in Order 03, and extended by Order 04 in this docket, until 30 days after the Commission issues its Order Adopting Rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800.

Background

On April 17, 2020, in response to the emergence of the COVID-19 pandemic, Gov. Inslee issued Proclamation 20-23.2, which prohibited all energy, water, and telecommunications providers from: (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. Proclamation 20-23.4, issued on May 29, 2020, required utilities to develop COVID-19 Customer Support Programs that address payment plan options for residential customers who are in arrears due to the COVID-19 pandemic. Subsequent gubernatorial proclamations extended the statewide disconnection moratorium to July 31, 2021.

On July 22, 2020, the Commission held a workshop that included Staff, the energy companies, and public advocacy groups to discuss ongoing issues stemming from the pandemic. At the workshop, the participants discussed measures to inform the end of the disconnection moratorium, communications, assistance program funding, preliminary data reporting, long term

¹ The companies referred to in this memo include Avista Corporation d/b/a Avista Utilities; Cascade Natural Gas Corporation; Northwest Natural Gas Company d/b/a NW Natural; PacifiCorp d/b/a Pacific Power & Light Company; and Puget Sound Energy.

payment plans, and continued waiving of disconnection and late payment fees. These early discussions led to the subsequent term sheets in this docket.

On October 20, 2020, the Commission issued Order 01 adopting the original Term Sheet and ordered Staff to “open a docket and prepare a CR-101 when reasonably practicable to consider potential long-term changes and improvements to customer notice, credit and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits, with the understanding that such consideration may or may not result in proposed rules, an interpretive and policy statement, or Commission action.” The original term sheet also established quarterly data reporting requirements.

On February 18, 2021, the Commission issued Order 02 in this docket, providing guidance regarding notice activities, adopting the Second Revised Term Sheet, and extending the electric and natural gas disconnection moratorium to July 31, 2021. Staff based their recommendation to extend the moratorium on health data, economic data, and growing arrearages. The Commission directed Staff to revisit this matter at an open meeting in May.

On April 7, 2021, the Commission held a second workshop with Staff, the energy companies, and public advocacy groups focusing on customer engagement. Topics of discussion included communicating with underserved communities, barriers to customer engagement, equitable assistance fund distribution, communications best practices, and more frequent data reporting. This workshop discussion led to additional data reporting requirements in the Third Revised Term Sheet.

On May 18, 2021, the Commission issued Order 03 adopting Staff’s Third Revised Term Sheet which waived late fees, deposit requirements, disconnection fees, and reconnection fees until 180 days after July 31, 2021, and added monthly data reporting requirements. Order 03 clarified that disconnection visit or site visit fees are prohibited for 180 days after the moratorium is lifted² and extended data reporting until 12 months after the resumption date.³ Staff recommended maintaining July 31, 2021, as the end of the moratorium, which was established in Order 02, based on arrearage levels, availability of energy assistance funds, availability of vaccines, and economic data.

On July 2, 2021, the Commission issued Order 04 in this docket extending the disconnection moratorium to September 30, 2021, to align with Gov. Inslee’s extension of the disconnection moratorium in Proclamation 20-23.16. Utilities regulated by the Commission may begin charging the waived fees on April 1, 2022, or 180 days after the resumption date.

² U-200281, Order 03, Paragraph 42.

³ U-200281, Order 03, Paragraph 37.

Discussion

On April 1, 2022, three term sheet provisions will expire:

- Waived fees and deposits.
- Long-term payment arrangements for up to 18 months for residential customers and up to 12 months for small commercial customers.
- Obligation to refrain from sending active customer accounts to collection agencies, credit bureaus, or reporting agencies.

Staff is concerned that elimination of these three provisions will harm consumers. Of the three expiring requirements, Staff is most concerned about the adverse impact that reinstatement of fees and deposits will have on customers. As directed by Order 01 in this docket, Staff has opened a rulemaking (Docket U-210800) to consider long-term changes to the fees and deposits charged by utilities. Staff urges the Commission not to reinstate such fees and deposits pending the conclusion of that rulemaking. Those fees may be found to be inequitable and disproportionately impact or harm low-income and vulnerable customers. More information is needed to fully understand the impact of these fees on customers. Staff requests that the Commission continue to waive fees and deposits until 30 days after the completion of the rulemaking in Docket U-210800 through a Commission Order Adopting Rules or otherwise determining the propriety of the fee and deposit rules.

Staff plans to hold another workshop in Docket U-200281 with the utilities and public advocates in May or June 2022. The focus of this workshop will center around the post-moratorium experiences of customers, companies, and Staff, the current state of arrearages, and identification of remaining issues to be addressed.

Utility Fee Rulemaking

Order 01 in this docket directed Staff to initiate a CR-101 “to consider changes and improvements to customer notice, credit and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits.”⁴ The Commission opened Docket U-210800 on October 19, 2021, to consider whether changes to the credit and collection rules are appropriate. Staff anticipates the docket will lead to a rulemaking, a process that could take approximately 12 months. Nationally there is mounting concern that late fees and other similar fees contribute to the cycle of debt for many customers who are already struggling with unmanageable bills. There are also questions concerning the effectiveness of these fees and if they actually dissuade late payment.⁵ Staff believes the suspension of fees and deposits should be

⁴ U-200281, Order 01, Paragraph 17.

⁵ Food or power: Energy bill late fees force tough choices, The Associated Press, <https://federalnewsnetwork.com/government-news/2022/03/major-power-utilities-charge-higher-than-average-late-fees/>, accessed Mar. 15, 2022.

extended until the rulemaking is complete to prevent harm to customers who are struggling to manage household debts coming out of the pandemic and winter months, and allow the Commission to better understand the impact of these fees on low income and the most vulnerable customers.

COVID-19 Arrearage Data Update

Based on the most recent data submitted by the utilities, Staff has significant concern with the looming resumption of fees and deposits. Table 1 shows a significant increase in total arrearage dollars from March 31, 2020, to January 31, 2022, reported by four of the five investor-owned electric and natural gas utilities.

Table 1. Changes in Investor-Owned Utilities' Customer Arrearages

Overall Arrearages	Puget Sound Energy	Avista Corporation	Pacific Power & Light Company	Cascade Natural Gas Corporation	Northwest Natural Gas Company	Total
Total customers with Arrearages as of March 31, 2020	212,041	30,455	24,878	15,975	10,544	293,893
Total Customer with Arrearages as of Jan. 31, 2022	209,461	27,880	22,199	9,242	14,349	283,131
Total Arrearage Amounts as of March 31, 2020	\$23,415,071	\$5,641,851	\$5,814,962	\$3,377,895	\$921,160	\$39,170,938
Total Arrearage Amounts as of Jan. 31, 2022	\$47,167,032	\$9,195,009	\$9,830,951	\$2,109,931	\$1,646,401	\$69,949,324
Change in Arrearage Amounts (Jan. 2022 over March 2020)	\$23,751,961	\$3,553,158	\$4,015,989	-\$1,267,964	\$725,241	\$30,778,386
Percent of change in Arrearage Amounts	101.44%	62.98%	69.06%	-37.54%	78.73%	78.57%

Additionally, Table 2 shows most of the arrearages are attributable to customers who have not qualified for energy assistance in the past 24 months. Whether they qualify for energy assistance is unknown. These customers may distrust organizations involved in energy assistance, may be afraid to apply, may be unaware of the programs or may believe they do not qualify.

Table 2. Unknown-Income Status Arrearages as of January 31, 2022⁶

Percent of arrearages owned by Customers whose status is unknown	Puget Sound Energy	Avista Corporation	Pacific Power & Light	Cascade Natural Gas	Northwest Natural Gas	Total
Unknown Income Arrearages	\$43,202,848	\$6,406,140	\$9,227,741	\$2,066,755	\$1,631,566	\$62,535,050
Overall Arrearages	\$47,167,032	\$9,195,009	\$9,830,951	\$2,109,931	\$1,646,401	\$69,949,324
Percentage	91.60%	69.67%	93.86%	97.95%	99.10%	89.40%

Table 3 shows a comparison of the two assistance streams following the implementation of the COVID-specific assistance programs in April 2021. The table shows the number of auto-grants provided by month, and the corresponding dollar amounts provided via the auto-grant process versus the more traditional process of obtaining assistance by applying with a local Community Action Agency.

⁶ Absent income data, Staff has used whether a customer has qualified for energy assistance in the prior 24-months as a proxy for low-income customers. Unknown-income customers are customers who have not qualified for energy assistance in the past 24 months.

Table 3. Assistance Funds Disbursed by Month and Program

Reporting Period	Number of Auto-Grants (COVID Assistance)	Funds Disbursed via Auto-Grants (COVID Assistance)	Funds Disbursed via traditional methods (Permanent Bill Assistance Programs)	Total Funds Disbursed
April 2021	12,332	\$10.2 Million	\$2.5 Million	\$12.7 Million
May 2021	4,205	\$5.5 Million	\$1.5 Million	\$7.0 Million
June 2021	3,949	\$4.0 Million	\$1.2 Million	\$5.2 Million
July 2021	2,394	\$1.5 Million	\$1.0 Million	\$2.5 Million
August 2021	897	\$1.3 Million	\$0.9 Million	\$2.2 Million
September 2021	10,508	\$4.3 Million	\$1.0 Million	\$5.3 Million
October 2021	976	\$0.9 Million	\$0.6 Million	\$1.5 Million
November 2021	412	\$0.7 Million	\$1.2 Million	\$1.9 Million
December 2021	1,346	\$1.2 Million	\$0.8 Million	\$2.0 Million
January 2022	868	\$1.2 Million	\$2.9 Million	\$4.1 Million
Total	37,887	\$30.8 Million	\$13.6 Million	\$44.4 Million

In the 10 months in which utilities have provided grants directly to customers, assistance funds provided via auto-grants represents approximately 70% of the total assistance funds distributed since the implementation of the COVID-specific assistance programs. When looking at the arrearage data in Table 2 and the assistance data in Table 3 it is clear that assistance has reached a significant portion of customers who are known low-income customers. Although \$30.8 million has been provided in relief for known low-income customers, the same cannot be said for those who have not received energy assistance in the past 24 months but may nevertheless qualify for energy assistance. Customers who have not received energy assistance are now responsible for approximately 89.4% of the outstanding arrearages reported in January 2022. Staff would like more time to discuss this data with the utilities and customer advocates.

Discussions with IOU's and Public Advocates

Staff met with the five energy companies the week of March 7, 2022, to discuss the looming deadline for waiver of fees and deposits, and learn whether they would support or oppose Staff's recommendation to extend the waiver during the pendency of the rulemaking. Staff also informed the companies that Staff plans to hold a workshop in the next few months to revisit Docket U-200281 and hear from the stakeholders about how things are going and if there is anything else we need to address.

After discussing Staff's recommendation with their respective internal teams, the five energy companies report they do not oppose Staff's recommendation, but they do have reservations.

The utilities also questioned how this action might affect cost recovery. The utilities may file a request to amend their existing accounting petitions if they believe the Commission's action in this docket requires changes to those petitions. Cost recovery would most likely be addressed in a general rate case.

Staff also notified the public advocates in this docket of Staff's proposal. The Energy Project supports Staff's recommendation and further would like to see the deadline extended for offering long-term payment arrangements and refraining from sending active customer accounts to collection agencies, credit bureaus, or reporting agencies.

Conclusion

Staff recommends the Commission:

Issue an order:

1. Granting an exemption from WAC 480-100-113 and WAC 480-90-113 related to residential services deposit requirements, which authorize electric and gas companies to collect a deposit from residential customers if the utility has sent three or more delinquency notices to the customer or disconnected a customer's service. These exemptions will continue until 30 days after the Commission issues its Order Adopting Rules or otherwise determines the propriety of the fee and deposit rules in Docket U-210800.
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