

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of:)	DOCKET UE-132119
)	
PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY)	
)	DECLARATION OF
Petitioner,)	RAYNE PEARSON
)	
)	
Petition for Declaratory Order Regarding)	
Interpretation of WAC 480-100-128(6) and)	
WAC 480-100-178)	

Rayne Pearson, under penalty of perjury under the laws of the State of Washington, declares as follows:

1. I am employed by the Washington Utilities and Transportation Commission (Commission) as the Consumer Protection Manager in the Consumer Protection and Communications section. As Consumer Protection Manager, my responsibilities include supervising the work of complaint investigations staff and providing regulated companies with comprehensive technical assistance to reduce repeat violations and customer harm.
2. On July 30, 2013, I spoke with complaint investigator Rachel Stark about Consumer Complaint #117898. Ms. Stark informed me that PacifiCorp was including its first disconnection notice on its regular monthly bills, rather than sending them by separate mailing as the other regulated energy companies do. This was the first time this issue had been brought to my attention. During a routine complaint investigation, regulated companies provide account summaries, and typically do not provide copies of notices or bills. For example, Attachment C of PacifiCorp's Petition for Declaratory Order contains a list of ten complaints that included, as part of the complaint record, copies of its combined bill and notice since 2005. During that same period, consumer protection staff has investigated 309 complaints against PacifiCorp. This case is the first time a combined bill and notice has been provided to consumer protection staff since I began working here in January 2010, almost four years ago. I have reviewed each of the ten complaints referenced by the Company, and will address them each in turn.
3. In Complaint #105627, the customer was threatened with disconnection for failing to pay a deposit. The customer disputed the deposit request, and the complaint investigator verified that the Company was acting within the rules when it requested

the deposit. Although the Company provided a copy of the combined bill and notice, Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.

4. In Complaint #107838, the customer claimed a medical emergency. Although the Company provided a copy of the combined notice and bill, the complaint investigator did not note a violation.
5. In Complaint #106850, the customer believed her bill was incorrect based on estimated reads. Although the Company provided a copy of the combined bill and notice, Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
6. In Complaint #105561, the customer was threatened with disconnection. Although the Company provided a copy of the combined bill and notice, Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
7. In Complaint #107475, the customer fraudulently obtained service. Although the Company provided a copy of the combined bill and notice, the investigation focused on substantiating the fraud claim, and Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
8. In Complaint #104815, the customer believed her bill was incorrect based on estimated reads. Although the Company provided a copy of the combined bill and notice, staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
9. In Complaint #102127, the customer claimed a medical emergency. Although the Company provided a copy of the combined bill and notice, Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
10. In Complaint #96592, the customer received a retroactive bill. Although the Company provided a copy of the combined bill and notice, Staff did not perform a compliance check to verify whether the combined bill and notice complied with Commission rules.
11. In Complaint #95303, filed on October 28, 2005, the customer, who received electronic statements, was threatened with disconnection. PacifiCorp noted in the response to the complaint that "despite elimination of paper statements for customer's regular monthly bills, the Company still sends paper notices to the customers when they become past due." Staff believes this demonstrates that the Company has the capability to generate first notices separate from billing statements without having to substantially overhaul its system; there is already a mechanism in place to do so. Moreover, Staff believes this demonstrates the company's understanding of the separate requirements of WAC 480-100-178, (which permits electronic billing) and WAC 480-100-128, (which does not permit electronic noticing).

12. In Complaint #92647, the customer was disconnected for nonpayment. The complaint investigator requested copies of disconnect notices, and the Company provided a combined bill and notice, but referred to it only as a "notice" in its response. The Company's response to the investigator's follow-up questions included the following: "The first bill under the new account went out on 9/29/04 ... On 10/27/04 the second bill was issued. This bill indicated there was \$192.92 in new charges and \$443.19 was past due. A past due notice was issued on 10/29/04 for \$443.19 due by 11/12/04. A final notice was issued on 11/4/04 for \$443.19 due by 11/12/04." The attachments included a combined bill and notice dated October 29, 2004, (represented in the Company's response as having been sent in addition to the regular bill on October 27, 2004), and the final notice dated November 4, 2004. The copy of the October, 27, 2004, bill was not provided to Staff. Staff based its findings on the Company's representation that the October 29, 2004, notice was sent separately from the October 27, 2004, bill.
13. PacifiCorp's statement in its Petition for Declaratory Order that Staff's position on whether disconnection notices may be combined with regular billing statements has changed is inaccurate. It is more accurate to say that Staff had not previously taken a position on this issue. The practice of combining disconnection notices with regular billing statements has not been the focal point of previous complaints involving PacifiCorp.
14. On July 30, 2013, Rachel Stark sent an email to PacifiCorp requesting copies of disconnection notices issued to the customer in Complaint #117898. That same day, the Company provided a copy of the combined bill and notice. Ms. Stark replied with the following question: "Where are the first notices to this customer? I have the bills which show two due dates and I have the final notices, but I do not see any first notices." The Company responded: "I have provided all of the statements that were sent out to Mr. Coleman. The Past Due Notice is included on the monthly statements. We do not issue a monthly statement and a separate past due notice each month." Ms. Stark replied: "Sending the customer a notice included in the bill is a violation of the rules. Please reconnect this customer immediately."
15. On August 2, 2013, the Company stated it had been combining bills and first notices since 1995. On August 20, 2013, Ms. Stark recorded 434 violations of commission rules. Her findings included 216 violations of WAC 480-100-178 for including the customer's notice on her bill, and 216 violations of WAC 480-100-128(6) for failing to properly issue a first disconnection notice separate from the customer's bill. Ms. Stark multiplied 18 years by 12 months to record representative violations of each rule (one violation per month for each month in the last 18 years the company has engaged in this practice). Actual violations of the rules are significantly larger.
16. On August 26, 2013, Barb Coughlin of PacifiCorp sent me an email requesting review of Ms. Stark's findings. On September 6, 2013, I replied to Ms. Coughlin via email as follows:

"The violations in this complaint are upheld. WACs 480-100-128 and 480-100-

178 confer separate and distinct obligations on regulated utilities. PacifiCorp may not combine notices and billing statements. In an email to Rachel, Jennifer stated: 'I do not see a requirement in WAC 480-100-128(6) that states the first disconnection notice must be separate from the current monthly bill.' Because the requirements exist in two separate sections of the WAC, staff's opinion is that they may not be combined. Additionally, the language in 480-100-178(4) provides that, "With the consent of the customer, a utility may provide billings in electronic form if the bill meets all the requirements for the use of electronic information in this chapter.' The fact that no similar provision exists in 480-100-128 allowing a customer to receive notices electronically reinforces this interpretation. Moreover, it is confusing to customers (as evidenced in this complaint) when the notice is combined with the bill. Finally, it best serves both the company and its customers to provide disconnection notices in an unambiguous format."

17. On September 12, 2013, Assistant Director Sharon Wallace and I met telephonically with Ms. Coughlin for an annual complaint review. During that meeting, I agreed to consult with the Attorney General's office to seek guidance regarding Staff's position that bills and notices may not be combined.
18. On October 4, 2013, I met with Senior Assistant Attorney General Sally Brown, to discuss the issue. I provided Ms. Brown with copies of the combined bill and notice, and Ms. Brown agreed with Staff's position that the provisions of the Washington Administrative Code require that notices be issued separate and distinct from monthly billing statements. That same day, I communicated Ms. Brown's opinion to the Company.
19. Contrary to the Company's assertion, Staff's position is not based solely on the review of one consumer complaint. This was the first instance in more than four years where a copy of the combined bill and disconnection notice was provided to Staff in the course of a complaint investigation. Neither Ms. Wallace nor I were aware that PacifiCorp engaged in this practice until complaint #117898 was brought to our attention. The Company's claim that "staff has offered no explanation for this unexpected reversal" is a mischaracterization. This complaint, which directly involved a consumer's allegation that she had not received a first disconnection notice, brought the Company's practice under scrutiny for the first time. In each of the ten examples provided by the Company in Attachment C to its Petition for Declaratory Order, the combined bill and notice was ancillary to the central issue of the complaint, and was therefore not addressed by Staff.
20. On November 21, 2013, I confirmed that each of the other four regulated energy companies provide disconnection notices separate from their billing statements. Mike Parvinen, from Cascade Natural Gas, provided a copy of the company's first notice and replied, "Yes, they are mailed separately." Onita King, from Northwest Natural Gas, provided a copy of the company's first notice and replied, "Yes ... the notices are distinct and sent separately from the regular bill." Linda Gervais, from Avista Corp., in response to my question about whether first notices are sent separately from

bills, replied, "Yes, that is correct." Ms. Gervais provided a copy of the company's first notice via email. Kathie Barnard, from Puget Sound Energy, confirmed over that phone that PSE notices are mailed separately. Stacey Hammond, also from PSE, provided a copy of the company's first notice via email.

DATED December 5, 2013, at Olympia, Washington.


RAYNE PEARSON