

Agenda Date: September 12, 2013  
Item Number: A1  
Dockets: UE-130545  
UE-131087  
Company Name: PacifiCorp d/b/a Pacific Power & Light Company  
Staff: Rayne Pearson, Consumer Protection Manager

### **Recommendation**

Deny PacifiCorp's petition in Docket UE-130545 and close the rulemaking inquiry in Docket UE-131087.

### **Background**

On April 15, 2013, PacifiCorp filed with the Utilities and Transportation Commission a petition for exemption from WAC 480-100-128(6)(k), which requires company employees dispatched to disconnect service to accept payments at the service address to prevent disconnection. The company cited safety concerns for its employees who carry customer payments in the field. Staff opposed the company's petition, and both the company and staff presented their positions at the May 30, 2013, open meeting.<sup>1</sup> Given that resolution of the issue could impact other investor-owned electric and gas utilities, the Commission deferred action on the petition and indicated that it would open a rule-making proceeding to examine whether changes to WAC 480-90-128(6)(k) and WAC 480-100-128(6)(k) were warranted.

On July 1, 2013, the Administrative Law Division issued a CR-101, and staff sent a data request to the five regulated energy companies seeking the following information for a five year period: the total number of meters and customers; the number of field interactions, disconnections, and payments received to stop disconnections; the type and context of any documented customer threats made to company employees; the number of on the job injuries; and the number of free and fee-based pay stations.

### **Employee Safety**

Between the five regulated energy utilities, more than 17.5 million potential customer interactions occurred in the field between 2009 and 2013; of those, only 114— less than 0.0007 percent— resulted in threats made to company employees. During a four and half year period, one robbery, one theft, and one assault were reported for all companies, representing less than 0.00002 percent of all possible customer interactions. During the same period, there were 911 reported on the job injuries. The data provided by the companies shows a much stronger correlation between employee safety and the rate of on the job injuries; employees are more than four hundred times more likely to be injured at work than assaulted or robbed on the job.

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<sup>1</sup> Staff's memo from the May 30, 2013, open meeting is attached.

### **Payments Made to Stop Disconnection**

In 2013 alone, PSE has disconnected a total of 7,734 customers, but has collected 8,047 payments at the door to stop disconnections from occurring. More disconnections are prevented than completed for PSE customers. PSE's roughly 1:1 ratio has stayed consistent over the past five years. NW Natural Gas also disconnects an average of one customer for every one customer who pays at the door; Avista disconnects an average of two customers for every one customer who pays at the door; and PacifiCorp disconnects an average of four customers for every one customer who pays at the door. Most notably, Cascade Natural Gas—the only company that has not accepted cash to stop a disconnection at the door in the past five years—disconnects an average of ten customers for every one customer who pays at the door to stop a disconnection. It appears that accepting cash at the service address reduces the number of disconnections for nonpayment by as much as 40 percent.

### **Cash as a Method of Payment**

While four of the five companies do not retain the data needed to allow them to report the method of payment made at the door to stop disconnections, PacifiCorp presented data specific to cash payments. Since 2009, PacifiCorp collected an average of 43.9 percent in cash payments. PacifiCorp's cash collection has steadily increased each year, reaching 54.4 percent to date in 2013.

During that same period, an average of 71.3 percent of payments collected by Avista to stop disconnections were made by cash or check, and PSE reported that 86 percent of the nearly \$59.9 million collected at the door to stop disconnections was paid by cash or check. NW Natural Gas does not track field payments by method of payment, and Cascade Natural Gas does not accept cash at all. The data provided, however, demonstrates that the overwhelming majority of customers who pay at the door do so with cash or check. If PacifiCorp's data is representative of the industry as a whole, nearly half of all payments made to stop a disconnection of service are made in cash.

### **Availability of Pay Stations**

Four of the five energy companies maintain more than 30 pay stations for customers, all of which are available to customers free of charge. PacifiCorp, however, maintains just 20 pay stations, only five of which are available to customers to make payments with no additional fee. Data provided by Avista shows that, on average since 2010, 6.7 percent of customers threatened with disconnection use pay stations to stop pending disconnections. No other company reported pay stations as an available means to stop disconnection at the door; however, NW Natural Gas reported that over a five year period, 9.6 percent of customers who received a disconnection notice made payments at pay stations prior to a disconnection visit occurring.

### **Company Comments**

Puget Sound Energy (PSE) commented that, "To date, PSE has not experienced issues while accepting onsite payments at this time, and continues to accept onsite payments."

Avista commented that, "Under the current circumstances, the company does not believe there is a need to change the current rule at this time ... One factor that may influence a revision to the current rule in the future is related to remote disconnection and reconnection."

The comments provided by the companies in favor of modifying the rule – NW Natural Gas, Cascade Natural Gas, and PacifiCorp – propose language that would make it optional for them to accept any form of payment, not just cash.

According to Cascade Natural Gas, “having the ability to collect in the field means the utility has the ability to curb bad behavior. For example, there are customers that routinely pay only when faced with actual disconnection. Disconnecting after repeated notices as provided for in this chapter of the rule demonstrates to customers that there are actual consequences to not paying bills. For customers really unable to pay their bills, other options and avenues need to be pursued before the situation gets to the point of actual disconnection anyway. Customers who wait to pay until the service technician is at the door are not typically low income customers with financial hardships because they must pay an additional \$10 for making payment at the time of disconnection.” Cascade commented that it stopped accepting cash at the door in 2005 because of safety concerns, but did not provide specific examples.

Similarly, NW Natural Gas claims that collecting payment at the door “sends a message, although probably unintentional, that it is acceptable to use utility employees as personal payment collectors” and goes on to state that: “some customers simply become accustomed to waiting until the very last minute to pay their bill because they know that our field service employee will accept their payment. These customers are typically not the customer that is in financial hardship because they pay an additional \$15 fee for this service, and they have money to pay their bill when we arrive.” NW Natural Gas also cited safety concerns: “While field employees are exposed to a certain degree of risk every day, the risk is heightened when money is involved. The safety of customers is also at issue – a stolen check could lead to identity theft or other fraudulent act.” The company did not provide any specific examples.

PacifiCorp also offered evidence of customers “using the field collector as a payment method,” noting that 21 percent of payments made at the door were “repeat customers,” and that these customers “have chosen to utilize the most expensive payment option, paying the collector at the door at the time of disconnection. Those customers making payment at the time of disconnection pay a field visit charge of \$15.00.” PacifiCorp described thirteen “physical incidents in 2012 and 2013,” one of which occurred in Washington.

### **Other Comments**

The Commission also received comments from the International Brotherhood of Electrical Workers Local 125, Public Counsel, and The Energy Project.

Marcy Grail of the IBEW Local 125 – a union that represents employees who perform outside electrical line work, power line clearance, and tree trimming – supports a rule change, stating that “the pressure on field employees to manage volatile situations with angry or often desperate customers has increased dramatically,” and that “customers regularly confront our members about their bills, service, and numerous other issues which are often well beyond their control.”

Public Counsel filed comments opposing changes to the existing rule, noting that the rule was first promulgated in 1976, and, until 2001, required that companies *only* accept cash at the door to stop a pending disconnection. The rule was expanded to include other forms of payment with

no objection from industry stakeholders. Public Counsel also notes that “the existing requirement provides customers with a critical consumer protection – an opportunity to make payment to prevent disconnection from electric or natural gas service. For some utilities, a significant portion of customers facing disconnection are able to avoid disconnection as a result of this payment opportunity.”

The Energy Project also filed comments opposing any changes to the rule, stating that “we believe that *the violence in these situations stems from the occurrence of the disconnection, not from the opportunity to pay the bill or to pay the bill with cash.* Furthermore, not accepting payment at this point is more likely to escalate the potential for a violent result during what is already a stressful situation for people who are already quite strained, financially and otherwise.” (Emphasis in the original).

### **Workshop**

On Aug. 15, representatives from all five energy companies, the Energy Project, Public Counsel, and commission staff convened to discuss the possibility of modifying the rule with the Commissioners.

The parties reiterated their positions, reflected in comments filed with the commission prior to the workshop.

### **Discussion**

The information provided to staff in response to the data request does not support the companies’ claims that collecting payments in the field presents an employee safety issue. While staff understands there are inherent safety risks that company field employees face, staff does not believe that a causal connection can be established between those risks and whether or not employees collect customer payments. In fact, not one company reported a threat specifically related to taking money held by an employee; instead, threats were made because service was being disconnected or reconnected, or because employees were reading customer meters.

PacifiCorp argues that “eliminating the requirement to accept payment at the service address eliminates the opportunity for tense face-to-face interaction.” Staff believes, on the contrary, that eliminating the current requirement will actually *increase* the potential for violence, not reduce it.

Ms. Grail argues that due to the “economic downturn ... the pressure on field employees to manage volatile situations with angry or often desperate customers has increased dramatically.” The data provided by the companies does not support this conclusion.

In a nearly five-year period, one robbery, one theft, and one assault were reported across all five companies. *None were committed by a customer in the course of a disconnection or payment transaction.* The details are as follows:

- In 2011, a PSE employee was robbed by an assailant who laid in wait near the employee’s vehicle. When the assailant displayed a handgun, the employee surrendered the money in his possession and was not injured.

- On an unspecified date, PacifiCorp stated there was “one reported account of a metering employee’s purse being stolen out of a company truck. No further documentation is available on that incident.”
- In 2011, an Avista employee was reading a meter when a neighbor’s dog attacked him. The dog’s owner then approached the employee, who was using a “dog stick” to push the dog away, and assaulted him.

The companies supporting a rule change argue that field employees are “targeted” by criminals in the community because they are “known to carry cash,” then use unrelated data about threats made to employees during disconnections and reconnections to support that argument. Notably, the two companies who do not support a rule change – PSE and Avista – are the only companies that presented data for one assault and one robbery that occurred in the nearly five-year period for which staff requested data. PacifiCorp, however, has failed to make the case set forth in its initial petition.

The companies also make a “customer behavior” argument to support a rule change. All three companies claim that because customers who pay at the door pay an extra \$10-\$15 disconnection visit fee, they must not be low-income. But in a variety of situations, low-income people are unable to take advantage of the lowest-cost option available. Take payday loans for example. With annual percentage rates set at 390 percent in Washington State, they are far from the lowest-cost option for obtaining a short-term loan. And, like individuals who find themselves caught in the payday loan cycle, many customers paying at the door may find themselves in that position more than once. That is not at all surprising to staff. The deterrent available to the companies to “curb” the behavior of paying at the door is already captured in the disconnect visit fee.

While PacifiCorp offers up a wealth of additional data and statistics related to unbanked populations in Washington and the availability of internet connections, the fact remains that the data provided by the utilities, as a whole, demonstrates that at least 40 percent of the people who make payments at the door do so with cash, and that the overwhelming majority of payments are made by cash or check. The reality is that very few people are going online or making credit card payments over the phone to stop disconnections at the door.

Most notably, the three companies that wish to modify the rule are requesting the ability to stop accepting payments in the field altogether, not just cash payments. The proposed rule changes would make the decision to collect payments at the door discretionary on the part of company personnel, which, in practice, would undermine the consumer protection aspect of the rule entirely. Not only would customers potentially be subjected to disparate treatment, Commission oversight would be removed and companies would self-regulate their decisions to accept or not accept payment. NW Natural Gas, for example, proposes to “limit the number of payments per customer per year that it will accept at the door” or “restrict the availability of the field payment option to certain neighborhoods.”

Staff strongly believes that the ability to pay at the door to prevent a disconnection is a vital consumer protection that must be preserved, particularly in light of the data showing that

between one-third and one-half of all disconnections are prevented because this rule exists. Electricity and gas are essential services, the continuity of which is not to be taken lightly.

**Conclusion**

Staff respectfully recommends that the commission deny PacifiCorp's petition in Docket UE-130545 and close the rulemaking inquiry in Docket UE-131087.

## ATTACHMENT

Agenda Date: May 30, 2013  
Item Number: A2  
  
Docket: UE-130545  
Company Name: PacifiCorp d/b/a Pacific Power & Light Company  
  
Staff: Rayne Pearson, Consumer Protection Manager

### **Recommendation**

Deny the company's petition for exemption from WAC 480-100-128(6)(k).

### **Background**

On April 15, 2013, PacifiCorp filed with the Utilities and Transportation Commission a petition for exemption from WAC 480-100-128(6)(k), which requires company employees dispatched to disconnect service to accept payments at the service address to prevent disconnection. The company cited alleged safety concerns for its employees who carry customer payments in the field.

### **Discussion**

Staff opposes PacifiCorp's petition, and will address each of the company's arguments in turn.

- 1. PacifiCorp claims that "field employees who are known to carry money in their vehicle are inherently at risk for being attacked or robbed as they travel their daily route."**

There is no factual basis for the company's claim that its field employees are "known to carry money." If the company is concerned about a widespread belief that power company employees carry cash, it could install lock boxes inside its vehicles for employees to deposit payments and have "Drivers Do Not Carry Cash" printed on the side.

The company's description of the events that transpired when Mississippi employee Nathan Baker was murdered is factually inaccurate. There were no witnesses to the crime, and sheriffs were only able to deduce Baker's last known whereabouts by tracking his company vehicle.<sup>2</sup> According to news articles, Baker's body was found four miles from the customer's home more than 24 hours later. The company's claim that "After Nathan fell to the ground, the owner shot Nathan in the head. The owner then took the cash/customer payments Nathan had collected before the fateful visit to this residence" is contrived to create an unsubstantiated inference that the customer's motive was to rob Baker, not to prevent him from disconnecting service. No one actually knows who took the money or when it was taken; the case has yet to go to trial.

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<sup>2</sup> "Utility Worker Found Dead," News Center 11 [www.wtok.com](http://www.wtok.com), last accessed on May 15, 2013.

PacifiCorp's claim that safety is its "top priority" is contradicted by the company's continued practice of sending employees unaccompanied onto customer property to disconnect service. If safety were truly the company's utmost concern, it could invest in two-way meters to enable remote disconnection, thereby eliminating the need to put their employees in harm's way.

**2. PacifiCorp argues that because "online payment and pay-by-telephone provide almost immediate account updating and may take place inside a customer's home ... it is no longer necessary for employees to accept payments in the field."**

PacifiCorp's argument that online payments and pay-by-phone options eliminate the need for employees to accept payments in the field ignores the realities of the "unbanked" segment of the population, which is disproportionately African-American and Hispanic. According to FDIC data, more than 40 percent of low-income households are without bank accounts.<sup>3</sup> In addition, more than 20 percent of African-American and Hispanic households across all income levels do not have bank accounts, compared with just four percent of Caucasian households.<sup>4</sup> Exemption from this rule would result in a disparate impact on African-American and Hispanic customers because they are five times more likely to be "unbanked" than their Caucasian counterparts.

The top reason cited for not having a bank account is cost. Monthly fees and minimum balance requirements often preclude low-income people from opening or maintaining a bank account. Without a bank account, consumers cannot obtain credit or debit cards. The company's position that customers who are being disconnected can pay online or by telephone assumes that every customer has those options. In reality, many do not. Staff is concerned about those consumers who cannot afford bank accounts, and who may not have transportation on the day of a scheduled disconnection.

A scenario where a company employee refuses to accept cash from a customer and proceeds to disconnect service despite the customer's effort to make payment is unconscionable. That customer, who is already strapped for money, is then subject to a reconnection fee and possible loss of refrigerated foods and/or medications until service is restored, in addition to any other consequences that arise from an arguably avoidable inconvenience. Staff does not support a practice that targets the most vulnerable demographic of consumers.

PacifiCorp's public interest argument as it relates to the safety of its employees is outweighed by the public interest argument as it relates to consumers because there are alternative means available to address the perceived safety issue that have less impact on consumers.

The company has failed to exhaust, let alone address, other avenues for dealing with its safety concerns while upholding its duty to comply with commission rules.

**3. The Company recently implemented a similar change in Utah that has not resulted in any escalated calls or commission complaints.**

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<sup>3</sup> 2011 FDIC National Survey of Unbanked and Underbanked Households, September 2012 at 16.

<sup>4</sup> Id at 14.



PacifiCorp's statement that it has not received "any ... commission complaints due to the change in business practice in Utah" is misleading. The Utah Public Services Commission would be unable to accept a complaint from a consumer protesting the change, because Utah law contains no similar provision to the rule at issue here.

### **Conclusion**

PacifiCorp is not required to disconnect service while customers are home, or even knock on the door prior to disconnecting service. But in the event a customer is able and willing to make an on-site payment to stop the disconnection from occurring, refusing payment and proceeding with the disconnection is decidedly contrary to the public interest, particularly when alternative means of addressing alleged safety issues are available.

Accordingly, Staff respectfully recommends that the commission deny PacifiCorp's petition in Docket 130545.