

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. HARRISON-RAY WATER COMPANY, Respondent.	DOCKET UW-180885 <i>(Consolidated)</i> ORDER 01
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. HARRISON WATER COMPANY/KIONA, LLC, Respondent.	DOCKET UW-190311 <i>(Consolidated)</i> ORDER 01 ORDER OF CONSOLIDATION COMPLAINT FOR PENALTIES NOTICE OF PREHEARING CONFERENCE (Set for June 3, 2019, at 1:30 p.m.)

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND

2 Harrison-Ray Water Company, Inc., (Harrison-Ray) and Harrison Water Company/Kiona, LLC, (Harrison/Kiona) (collectively “Harrison” or “the Company”) are water companies that are operated out of Pasco, Washington. They are organized as

separate business entities but are both owned and operated by Tom Harrison and are managed as a single business.¹

- 3 Harrison-Ray has 223 approved connections in Walla Walla County. According to the Company, Harrison-Ray has 242 customers.
- 4 Harrison/Kiona has 360 approved connections in Benton County. According to the Company, Harrison/Kiona has 213 customers.
- 5 During a period of approximately six months, between August 3, 2017, and February 20, 2018, the Washington Utilities and Transportation Commission (Commission) received over 20 informal complaints concerning the two companies.
- 6 The informal complaints against the Company establish a pattern of chaotic and unresponsive management.
- 7 Multiple customers filed formal complaints against the Company in January and February of 2018. The Commission suspended decision on the complaints and opened its own formal investigation of the Company.
- 8 As part of its investigation, Commission Staff reviewed 22 informal complaints from customers and issued data requests to the Company.
- 9 The Company's lack of responsiveness obstructed and delayed Commission informal complaint investigators and compliance investigations staff.
- 10 In April of 2018, Commission Staff from Consumer Protection and Regulatory Services traveled to Richland, Washington, to meet with Tom and Dacia Harrison, to provide technical assistance to them, and to collect documents for the investigation.
- 11 Following the site visit, the Company continued to fail to provide requested documentation and so continued to obstruct and delay Commission Staff's investigation.
- 12 Mr. Harrison notified Commission Staff that he had engaged the Company's accountant for a specified period to respond to complaints. The engagement was temporary, however, and Commission Staff does not believe there has been a permanent improvement in regulatory compliance or management of the business.

¹ Tom Harrison owns and operates another water company as well, Sunrise Acres Water Services, LLC, which was recently classified as subject to the Commission's regulation in Docket UW-180886.

13 Because Harrison-Ray and Harrison/Kiona are managed as a single business, the allegations of violations are based on acts and documents that pertain to both companies.

II. PARTIES

14 The Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including water companies, under Title 80 of the Revised Code of Washington (RCW).

15 Harrison-Ray Water Company, Inc., is a water company subject to regulation by the Commission under Title 80 RCW.

16 Harrison Water Company/Kiona, LLC, is a water company subject to regulation by the Commission under Title 80 RCW.

III. JURISDICTION

17 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, chapter 80.04 RCW including RCW 80.04.110 and RCW 80.04.380, chapter 80.28 RCW, and chapter 480-110 of the Washington Administrative Code (WAC).

IV. APPLICABLE LAW

18 Under RCW 80.04.380, the Commission may penalize a public service company that violates any provision of Title 80 RCW or any rule of the Commission up to \$1,000 for each and every offense. Under the statute, every violation is considered a separate and distinct offense, and, in the case of a continuing violation, every day’s continued violation is deemed to be a separate and distinct offense.

19 Under WAC 480-07-320, the Commission, in its discretion, may consolidate two or more proceedings in which the facts or principles of law are related.

V. CLAIMS AND CAUSES OF ACTION AGAINST HARRISON-RAY

A. FIRST CAUSE OF ACTION

(19 Violations of RCW 80.28.080, Published Rates to Be Charged)

20 Pursuant to RCW 80.28.080, a water company must charge the rates and charges applicable to such service as specified in the company’s tariff.

21 Harrison-Ray’s Tariff WN U-2, at Rule 17 (Schedule X) states that a non-sufficient funds check charge is \$5.

22 Harrison-Ray’s Tariff WN U-2, at Rule 11, states that bills shall be paid monthly.

23 Harrison-Ray violated RCW 80.28.080 two times when it charged two customers \$25 each for non-sufficient funds although the charge in the tariff is only \$5; and seventeen times when it failed to bill customers monthly as required in the tariff.

**B. SECOND CAUSE OF ACTION
(253 Violations of WAC 480-110-315, Availability of Information)**

24 Pursuant to WAC 480-110-315, a water company must provide certain notifications and responses to customers and to the Commission.

25 A water company’s specific obligations under WAC 480-110-315 include the following:

- Subsection (1) A water company must notify its customers of its regular business hours, telephone number, mailing address and a twenty-four hour emergency telephone, pager, voice messaging, fax machine or mobile phone number, at least once a year.
- Subsection (2) A water company must advise its customers and the commission of any change in address or telephone number(s) at least ten days prior to the effective date.
- Subsection (4) When a nonemergency customer call is received, a water company must return the customer’s call within two business days.
- Subsection (5) A water company must acknowledge and respond to a customer’s written inquiry within two weeks of receiving the letter.
- Subsection (6) The water company must provide a copy of the commission’s consumer brochure to each new applicant for service, and once a year notify its current customers of the availability of the brochure and how to obtain a copy.

26 Harrison-Ray failed, on 253 occasions, to make information available and to timely respond to customers as required by 480-110-315, as follows:

480-110-315(1)	Failed to provide one customer with a 24-hour emergency telephone number.	1
480-110-315(2)	Failed on six occasions to notify the Commission of changes to the Company’s contact information (email and phone number) ten days prior to the effective date.	6

480-110-315(4)	Failed to return a non-emergency call of three customers within two business days.	2
480-110-315(5)	Failed on two occasions to acknowledge and respond to a customer's written inquiry within two weeks.	2
480-110-315(6)	Failed to provide any of the 242 Harrison-Ray customers with a copy of the Commission's consumer brochure.	242
Total Violations		253

C. THIRD CAUSE OF ACTION

(266 Violations of WAC 480-110-315, Application for Service)

- 27 Pursuant to WAC 480-110-325, a water company must obtain applications for service in writing, on company-supplied forms.
- 28 Harrison-Ray violated WAC 480-110-325 266 times when a customer requested an application for service and Harrison-Ray failed to provide the application for at least 266 days.

D. FOURTH CAUSE OF ACTION

(1 Violation of WAC 480-110-355(3), Required Notice Prior to Disconnecting Service)

- 29 Pursuant to WAC 480-110-355(3), a water company must comply with specific notice requirements prior to disconnecting a customer's service.
- 30 The specific requirements include the following:

(3) **Required notice prior to disconnecting service.** Each water company must notify customers before disconnecting their service except in case of danger to life or property, fraudulent use, impairment of service, or violation of law. In all other cases, the company must not disconnect service until it has met the following requirements:

(a) The company must serve a written disconnection notice on the customer, either by mail, or, at the company's option, by personal delivery of the notice to the customer's address, attached to the primary door. Each disconnection notice must include:

(i) 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; and

(ii) All pertinent information about the reason for the disconnection notice and how to correct the problem; and

(iii) The company's name, address, and telephone number by which a customer may contact the company to discuss the pending disconnection of service.

(b) In addition to (a) of this subsection, a second notice must be provided by one of the two options listed below:

(i) Delivered notice. The company must deliver a second notice to the customer and attach it to the customer's primary door; or

(ii) Mailed notice. The company must mail a second notice.

(c) Disconnection notices must:

(i) Include detailed information pertinent to the situation; and

(ii) Include the company's name, address and telephone number by which the customer may contact the company to discuss the pending disconnection of service; and

(iii) Expire after ten business days from the first day that the company may disconnect service.

31 Harrison-Ray violated WAC 480-110-355(3)(a)(ii) and WAC 480-110-355(3)(c) when it used a notice that failed to include the company's telephone number. Harrison-Ray violated WAC 480-110-355(3)(b) when it admitted that it failed to provide the required second notice. Harrison-Ray violated WAC 480-110-355(3)(c)(iii) when it used a disconnection notice that did not expire ten business days from the first day that the company may disconnect service.

**E. FIFTH CAUSE OF ACTION
(19 Violations of WAC 480-110-375, Form of Bills)**

32 Pursuant to WAC 480-110-375, a water company must use customer bills that adhere to a certain form and include certain information.

33 Specifically, a company must ensure its bills meet requirements that include the following:

Subsection (1) Customer bills must:

(a) Be issued at intervals not to exceed three months and identify if the water company if the water company is billing in arrears or advance

(f) Show the date the bill becomes delinquent if not paid. The minimum specified time must be fifteen days after the bill's mailing date, if mailed from within the state of Washington, or eighteen days if mailed from outside the state of Washington, after the bill's mailing date;

(h) If the customer is metered, include the current and previous meter readings, the current read date, and the number and kind of units consumed.

Subsection (4) When a company has cause to back-bill a customer, the company must allow the customer payment arrangements, if requested, for the same number of months to pay equal to the cumulative total of months being back-billed.

34 Harrison-Ray failed, on 19 occasions, to provide customer bills in the form required by 480-110-375, as follows:

480-110-375(1)(a)	Failed on ten occasions to issue bills at intervals not exceeding three months.	10
480-110-375(1)(f)	Failed on four occasions to show the date the bill becomes delinquent if not paid or show a date that is at least 15 days after the mailing date.	4
480-110-375(1)(h)	Failed on four occasions to include on the customer's bill accurate current and previous meter readings and the current read date.	4
480-110-375(4)	Failed to allow a customer payment arrangements for the same number of months equal to the cumulative total of months being back-billed.	1
Total Violations		19

F. SIXTH CAUSE OF ACTION

(357 Violations of WAC 480-110-385, Complaints and Disputes)

35 Pursuant to WAC 480-110-385, a water company must investigate customer complaints and communicate about them with the customer and the Commission.

36 A water company's specific obligations under WAC 480-110-385 include the following:

Subsection (1) If a water company receives a complaint or dispute from a customer or an applicant for service it must:

- (a) Acknowledge the complaint;
- (b) Investigate promptly;
- (c) Report the results of the investigation to the complainant;

Subsection (3) When commission consumer affairs staff refers an informal complaint to the company, the company must:

- (a) Investigate and report the results to the commission consumer affairs staff within two business days. The commission consumer affairs staff may grant an extension of time for responding to the complaint, if requested and warranted;
- (b) Keep the commission consumer affairs staff informed of progress toward the solution and the final result.

37 Harrison-Ray failed, on 357 occasions, to address customer complaints and disputes as required by 480-110-385, as follows:

480-110-385(1)(a)	Failed to acknowledge the complaints of four customers regarding requests for service.	4
480-110-385(1)(b)	Failed to promptly investigate the complaints of five customers regarding not receiving bills.	5
480-110-385(1)(c)	Failed to report to two customers the results of its investigation when the customer called and requested a bill.	2
480-110-385(3)(a)	Failed on 314 occasions to investigate the informal complaint and report the results to Commission Consumer Affairs Staff within two days.	314
480-110-385(3)(b)	Failed on 32 occasions to keep Commission Consumer Affairs Staff informed of progress toward the solution and the final result of the investigation.	32
Total Violations		357

VI. CLAIMS AND CAUSES OF ACTION AGAINST HARRISON/KIONA**A. FIRST CAUSE OF ACTION****(8 Violations of RCW 80.28.080, Published Rates to Be Charged)**

- 38 Pursuant to RCW 80.28.080, a water company must charge the rates and charges applicable to such service as specified in the company's tariff.
- 39 Harrison/Kiona's Tariff WN U-2, at Rule 17 (Schedule X), states that a non-sufficient funds check charge is \$4.
- 40 Harrison/Kiona violated RCW 80.28.080 eight times when it charged eight customers \$15 each for non-sufficient funds although the charge in the tariff is only \$4.

B. SECOND CAUSE OF ACTION**(221 Violations of WAC 480-110-315, Availability of Information)**

- 41 Pursuant to WAC 480-110-315, a water company must provide certain notifications and responses to customers and to the Commission.
- 42 A water company's specific obligations under WAC 480-110-315 include the following:
- Subsection (1) A water company must notify its customers of its regular business hours, telephone number, mailing address and a twenty-four hour emergency telephone, pager, voice messaging, fax machine or mobile phone number, at least once a year.
 - Subsection (2) A water company must advise its customers and the commission of any change in address or telephone number(s) at least ten days prior to the effective date.
 - Subsection (4) When a nonemergency customer call is received, a water company must return the customer's call within two business days.
 - Subsection (5) A water company must acknowledge and respond to a customer's written inquiry within two weeks of receiving the letter.
 - Subsection (6) The water company must provide a copy of the commission's consumer brochure to each new applicant for service, and once a year notify its current customers of the availability of the brochure and how to obtain a copy.
- 43 Harrison/Kiona failed, on 221 occasions, to make information available and to timely respond to customers as required by 480-110-315, as follows:

480-110-315(1)	Failed to provide a 24-hour emergency telephone number to two customers.	2
480-110-315(2)	Failed to notify the Commission of changes to the Company's contact information (email and phone number) ten days prior to the effective date.	1
480-110-315(4)	Failed to return a non-emergency call of four customers within two business days.	4
480-110-315(5)	Failed to acknowledge and respond to a customer's written inquiry within two weeks.	1
480-110-315(6)	Failed to provide any of the 213 Harrison/Kiona customers with a copy of the Commission's consumer brochure.	213
Total Violations		221

C. THIRD CAUSE OF ACTION

(1 Violation of WAC 480-110-325, Application for Service)

- 44 Pursuant to WAC 480-110-325, a water company must obtain applications for service in writing, on company-supplied forms.
- 45 Harrison/Kiona violated WAC 480-110-325 when a customer requested an application for service and Harrison/Kiona failed to provide one.

D. FOURTH CAUSE OF ACTION

(1 Violation of WAC 480-110-355(3), Required Notice Prior to Disconnecting Service)

- 46 Pursuant to WAC 480-110-355(3), a water company must comply with specific notice requirements prior to disconnecting a customer's service.
- 47 The specific requirements include the following:

(3) **Required notice prior to disconnecting service.** Each water company must notify customers before disconnecting their service except in case of danger to life or property, fraudulent use, impairment of service, or violation of law. In all other cases, the company must not disconnect service until it has met the following requirements:

- (a) The company must serve a written disconnection notice on the customer, either by mail, or, at the company's option, by personal delivery of the notice to the customer's address, attached to the primary door. Each disconnection notice must include:

(i) 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; and

(ii) All pertinent information about the reason for the disconnection notice and how to correct the problem; and

(iii) The company's name, address, and telephone number by which a customer may contact the company to discuss the pending disconnection of service.

(b) In addition to (a) of this subsection, a second notice must be provided by one of the two options listed below:

(i) Delivered notice. The company must deliver a second notice to the customer and attach it to the customer's primary door; or

(ii) Mailed notice. The company must mail a second notice.

(c) Disconnection notices must:

(i) Include detailed information pertinent to the situation; and

(ii) Include the company's name, address and telephone number by which the customer may contact the company to discuss the pending disconnection of service; and

(iii) Expire after ten business days from the first day that the company may disconnect service.

48 Harrison/Kiona violated WAC 480-110-355(3)(a)(i) when it provided disconnection notice of fewer than eight business days. Harrison/Kiona violated WAC 480-110-355(3)(a)(ii) and WAC 480-110-355(3)(c) when it failed to provide the company's address and telephone number on a disconnection notice. Harrison/Kiona violated WAC 480-110-355(3)(b) when it admitted that it failed to provide the required second disconnection notice. Harrison-Ray violated WAC 480-110-355(3)(c)(iii) when it used a disconnection notice that did not expire after ten business days.

E. FIFTH CAUSE OF ACTION (14 Violations of WAC 480-110-375, Form of Bills)

49 Pursuant to WAC 480-110-375, a water company must use customer bills that adhere to a certain form and include certain information.

50 Specifically, a company must ensure its bills meet requirements that include the following:

Subsection (1) Customer bills must:

- (a) Be issued at intervals not to exceed three months and identify if the water company if the water company is billing in arrears or advance.

Subsection (4) When a company has cause to back-bill a customer, the company must allow the customer payment arrangements, if requested, for the same number of months to pay equal to the cumulative total of months being back-billed.

51 Harrison/Kiona failed, on 14 occasions, to provide customer bills in the form required by 480-110-375, as follows:

480-110-375(1)(a)	Failed on thirteen occasions to issue bills at intervals not exceeding three months.	13
480-110-375(4)	Failed to allow a customer payment arrangements for the same number of months equal to the cumulative total of months being back-billed.	1
Total Violations		14

G. SIXTH CAUSE OF ACTION

(325 Violations of WAC 480-110-385, Complaints and Disputes)

52 Pursuant to WAC 480-110-385, when commission consumer affairs staff refers an informal complaint to a water company, the company must:

- (a) Investigate and report the results to the commission consumer affairs staff within two business days. The commission consumer affairs staff may grant an extension of time for responding to the complaint, if requested and warranted;
- (b) Keep the commission consumer affairs staff informed of progress toward the solution and the final result.

53 Harrison/Kiona violated 480-110-385(3) on 325 occasions by failing to timely investigate formal complaints and communicate with Commission Consumer Affairs Staff, as follows:

480-110-385(3)(a)	Failed on 207 occasions to investigate the informal complaint and report the results to Commission Consumer Affairs Staff within two days.	207
480-110-385(3)(b)	Failed on 118 occasions to keep Commission Consumer Affairs Staff informed of progress toward the solution and the final result of the investigation.	118

Total Violations		325
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**H. SEVENTH CAUSE OF ACTION
(1 Violation of WAC 480-110-485, Retaining and Preserving
Records and Reports)**

- 54 Pursuant to WAC 480-110-485, water companies must retain all records and reports for three years.
- 55 Harrison/Kiona violated WAC 480-110-485 when Staff requested customer records and the Company was unable to produce substantive customer account histories and when records it did produce did not accurately reflect the information in the records on the day they were created.

VII. REQUEST FOR RELIEF

- 56 Staff requests that the Commission find that Harrison-Ray committed a total of 915 violations of state laws and Commission rules as set forth in the allegations above.
- 57 Staff requests that the Commission find that Harrison/Kiona committed a total of 571 violations of state laws and Commission rules as set forth in the allegations above.
- 58 Staff requests that the Commission impose monetary penalties on Harrison-Ray and Harrison/Kiona under RCW 80.04.380 of up to \$1,000 for each violation.
- 59 Staff further requests that the Commission order such other or further relief as appropriate under the circumstances.

VIII. PROBABLE CAUSE

- 60 Based on a review of Commission Staff's investigation report and of Commission records, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

IX. ORDER OF CONSOLIDATION

- 61 Pursuant to WAC 480-07-320, the Commission determines that the facts and principles of law are related, and consolidation would promote judicial economy and administrative

efficiency. Accordingly, Dockets UW-180885 and UW-190311 are consolidated for hearing and determination.

X. NOTICE OF PREHEARING CONFERENCE

62 **THE COMMISSION GIVES NOTICE that it will hold a prehearing conference in this matter on Monday, June 3, 2019, at 1:30 p.m., in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

63 The Commission will hear this matter under the Administrative Procedure Act, RCW chapter 34.05,² and pursuant to the Commission’s procedural rules in WAC chapter 480-07.³

64 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

65 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

Respondent: Harrison-Ray Water Company
P.O. Box 2818
Pasco, WA 99302-2818

² Applicable sections include but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452.

³ Applicable sections include but are not limited to WAC 480-07-140, WAC 480-07-150, WAC 480-07-305, WAC 480-07-365, WAC 480-07-440, WAC 480-07-450, WAC 480-07-470, WAC 480-07-490, and WAC 480-07-495.

Respondent: Harrison Water Company/Kiona, LLC
P.O. Box 2818
Pasco, WA 99302-2818

Representative: Tom Harrison
P.O. Box 2818
Pasco, WA 99302-2818

Public Counsel: Public Counsel: Lisa W. Gafken
Nina M. Suetake
Assistant Attorneys General
Washington Attorney General's Office
Public Counsel Unit
800 5th Ave., Suite 2000
Seattle, WA 98104-3188
(206) 464-6595
lisa.gafken@atg.wa.gov
ninas@atg.wa.gov
pccseaef@atg.wa.gov

66 Administrative Law Judge, Nelli Doroshkin, from the Commission's Administrative Law Division, will preside during this proceeding.⁴

67 The Commission will provide notice of any other procedural phase as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective May 1, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge
Director, Administrative Law Division

⁴ Judge Nelli Doroshkin may be reached at nelly.doroshkin@utc.wa.gov or 360-664-1163.

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

- or - Public Counsel Unit
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7744

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Mark L. Johnson, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter?

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (_____) _____