

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

PUGET SOUND ENERGY,

Respondent.

DOCKET UE-200027

COMPLAINT

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

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate
the rates, services, facilities, and practices of public service companies, including electric
and natural gas.

3 Puget Sound Energy (PSE or Company) is a “public service company” providing electric
and natural gas service within the state of Washington subject to the regulatory authority
of the Commission.

II. BACKGROUND

4 The following allegations are based on the Staff Investigation Report filed in this docket.

A. Disconnection of service

5 In October 2018, an informal complaint was filed by a PSE customer. In the complaint,
PSE disconnected service to a customer that made a payment using the Company’s
telephonic billing system. The informal complaint was consumer upheld. In response,
PSE disabled the automated detection feature in the telephonic billing system until further
notice, reapplied payment to the correct account, and credited the customer’s account all
deposits and fees associated with the payment error.

6 PSE’s automated call system attempts to match a phone number that the customer is
calling from to a specific account. If successful, a customer wishing to make a payment
to their account must enter the associated zip code and then PSE’s automated system will

transfer the customer to the Bill Matrix system for payment. The Bill Matrix system is a third-party vendor that PSE uses for processing payments. If the customer's telephone number is not matched to an account, the customer is required to enter their 12-digit account number before being transferred to Bill Matrix.

- 7 On March 5, 2019, Staff requested records from PSE related to disconnections for non-payment, disconnection fees, and the billing system generally. PSE provided a response to Staff including documentation for the specific time period indicated in each request. PSE provided a list of customers disconnected from service for non-payment, a list of customers who have had payments directed to a wrong account through the automated billing system, customer account histories, and customer complaint records. Over the course of this investigation, Staff discovered violations that occurred as the result of errors in this system.
- 8 **Disconnection for Nonpayment.** Staff found that 27 customer notifications and disconnections due to non-payment of services were made in error due to PSE improperly applying the payment to a previous or incorrect account.
- 9 **Security Deposit.** Staff found that 12 of the 27 customers whose service was improperly disconnected for non-payment were also required to pay a security deposit to have service restored. Company records show that the 12 customers paid half of the deposit prior to reconnection and then split the remaining balance over the next two billing cycles.
- 10 **Reconnection Charges.** Staff found the Company required 15 customers who had their service improperly disconnected to pay a reconnection fee prior to reconnecting service. Throughout the course of this investigation, Staff found the Company applied credits to 15 customer accounts it realized had incorrect charges. However, not all of the customers received credits to which they were entitled on their accounts.
- 11 **Late Payment Fees.** Staff found the Company charged late fees on 18 occasions from May 18, 2018, through March 15, 2019, to customers who made timely payments, but PSE improperly applied the payments to a wrong account. Through the course of this investigation, Staff found the Company applied credits to six customer accounts when it realized the charges were incorrect. However, not all of the customers received credits to which they were entitled on their accounts.

B. Treble Damages Charged on Bills

- 12 In February 2019, an informal complaint was filed. The investigation found that in September 2018, a customer moved into the same residence previously leased to a family member. Upon moving in, the customer called the Company to switch the utilities into his name. After a windstorm in January 2019, the customer lost service and reported the outage to the Company. During the visit, the Company determined that the customer had

self-connected their utilities; therefore, the Company disconnected all services and charged the customer for consumption, reconnection, labor, and materials to fix the self-connection. The Company also charged the customer treble damages for meter tampering and electricity diversion. The total billed to the customer was \$3,846.33.

- 13 In the course of investigating this complaint, Staff became aware of PSE's practice of sending customers to collections if they do not pay the treble damages the Company believes it is owed. During the investigation, the Company stated in an email, dated Feb. 8, 2019, that it sends out late payment notices to customers and if the amount owed, including treble damages, continues to go unpaid, the Company sends the unpaid treble damage charge to collections. If the amount billed for treble damages continues to go unpaid, the Company then decides whether it will pursue legal options to collect the charges civilly.
- 14 On March 28, 2019, during the investigation, the Company stated it believed that a portion of a previous email from Staff indicated they could include treble damage charges on customers' utility bills. Staff believes the May 9, 2017, email clearly states a Company is required to recover treble damages through civil action.
- 15 According to Commission records, Staff notified the Company on April 1, 2019, that per RCW 80.28.080, it would violate RCW 80.28.240 if it billed customers for treble damages.
- 16 Staff provided PSE clarification in an email dated April 10, 2019. The Company was informed that it is prohibited from including treble damage charges on customer bills before damages are successfully litigated, through either a court decision or a settlement with the customer. Staff's guidance also stated that the notification of treble damages should be separate from the customer's regular bill and in a format distinctly different from the Company's regular billing and communications with the customer. If the Company is not able to reach a settlement agreement with the customer, their alternative is to pursue the matter civilly.
- 17 The Company and Staff discussed the state laws and rules; as a result, Staff believes the Company is now in compliance. According to Company records, the Company reversed all treble damage charges billed after April 15, 2019, which were not currently in litigation – a total of \$2,067.75
- 18 In July 2019, the Company provided Staff with a draft settlement letter it believed addressed Staff's concerns in relation to RCW 80.28.080. On September 9, 2019, Staff provided suggested changes for consideration. The Company responded on September 10, 2019, that it agreed with Staff's guidance and would adhere to it going forward.

19 Staff found that between February 13, 2018, and September 1, 2019, the Company billed
328 customers for treble damages. Between May 2018, and July 2019, records showed
the Company took proper legal action against 17 of those customers.

III. JURISDICTION

20 The Commission has jurisdiction over the subject matter of this complaint under chapter
34.05 RCW, RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.010, RCW
81.04.020, RCW 81.04.110, RCW 81.04.380, RCW 81.04.460, RCW 81.04.510, RCW
81.80.075, and WAC 480-15-180.

IV. APPLICABLE LAW

21 The Commission regulates public service companies pursuant to a delegation of authority
from the legislature. *See* RCW 80.01.040(2); RCW 81.01.010.

22 RCW 80.28.080 states that “no gas company, electrical company, wastewater company,
or water company may charge, demand, collect or receive a greater or less or different
compensation for any service rendered or to be rendered than the rates and charges
applicable to such service as specified in its schedule filed and in effect at the time ...”

23 WAC 480-100-113 outlines the circumstances in which a company may require a deposit
prior to reconnection from residential customers. This includes when the utility has
disconnected service for nonpayment.

24 Under WAC 480-100-128(3)(a) and WAC 480-90-128(3)(a), a utility may disconnect
regulated services due to delinquent charges once the customer is properly notified.

25 RCW 80.28.80(1)(c) states that utility companies “may charge the defendant for treble
damages awarded in lawsuits successfully litigated under RCW 80.28.240.”

26 RCW 80.28.240 allows a utility to bring a civil action for damages against a customer
who tampers with any property owned or used by the utility to provide services. If civil
action is brought against the customer, the utility may recover, from the customer,
damages three times the amount of actual damages, plus any other related costs including
attorney fees. RCW 80.28.240(2).

27 The Commission may file a complaint upon its own motion setting forth any act or
omission by any public service company that violates any law or any order or rule of the
Commission. RCW 80.04.110.

V. CLAIMS

28 The Commission re-alleges paragraphs 2 through 19, above.

- 29 The Commission alleges that PSE violated RCW 80.28.080, WAC 480-100-113, WAC 480-100-128(3)(a), WAC 480-90-128(3)(a) as follows:
- a. Twenty-six violations of WAC 480-100-128(3)(a) for failure to properly apply a customer's payment prior to disconnecting service.
 - b. One violation of WAC 480-90-128(3)(a) for failure to apply the customer's payment prior to disconnecting service.
 - c. Twelve violations of WAC 480-100-113 for failure to meet residential services deposit requirements.
 - d. Thirty-three violations of RCW 80.28.080: 15 violations for failure to charge reconnection fees properly and 18 violations for failure to charge late payment fees properly.

VI. REQUEST FOR RELIEF

- 30 Staff requests that the Commission, pursuant to its authority under RCW 80.04.380, assess penalties of up to \$1,000 for each violation of RCW 80.28.080.
- 31 Staff recommends the Commission issue a formal complaint against PSE and assess penalties in the amount of up to \$72,000 for the following violations:
- 32 Up to \$1,000 for each of the 26 violations of WAC 480-100-128(3)(a) for failure to apply a customer's electric payment prior to disconnecting service.
- 33 Up to \$1,000 for one violation of WAC 480-90-128(3)(a) for failure to apply the customer's gas payment prior to disconnecting service.
- 34 Up to \$1,000 for each of the 12 violations of WAC 480-100-113 for failure to meet residential electric services deposit requirements.
- 35 Up to \$1,000 for each of the 33 violations of RCW 80.28.080 for failure to properly charge both reconnection and late payment fees.
- 36 Staff also recommends that PSE be required to calculate the security deposit and late fees as described by WAC 480-90-113(2)(e) and WAC 480-100-113(2)(e) and apply a credit or provide a refund to the customers' accounts as appropriate.
- 37 Staff recommends the Commission order the Company to remit to 286 affected customers a total refund of \$170,488.05 improperly collected for treble damages because those amounts were not awarded in successfully litigated lawsuits as required by RCW 80.28.080 and RCW 80.28.240.

38 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

VII. PROBABLE CAUSE

39 Based on a review all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

DATED at Lacey, Washington, and effective April 2, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson

RAYNE PEARSON

Director, Administrative Law Division