

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

ALEXANDER AND ELENA
ARGUNOV, THOMAS AND HEIDI
JOHNSON, CHAD AND VICTORIA
GROESBECK,

Complainants,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UE-220701

ORDER 04

INITIAL ORDER; ASSESSING
\$10,000 PENALTY

BACKGROUND

- 1 On September 15, 2022, the Washington Utilities and Transportation Commission (Commission) served on Puget Sound Energy (PSE or Company) the formal complaint (Complaint) of Alexander and Elena Argunov, Thomas and Heidi Johnson, and Chad and Victoria Groesbeck (Complainants). The Complaint alleges that PSE violated several Commission rules contained in Washington Administrative Code (WAC) 480-100.
- 2 On October 21, 2022, PSE filed its Answer to the Complaint. PSE denied that it violated Commission rules as alleged by the Complainants.
- 3 On November 1, 2022, the Commission entered Order 01, Prehearing Conference Order and Notice of Hearing, noticing an evidentiary hearing on Tuesday, March 14, 2023, at 9:30 a.m. The Commission took appearances from PSE, Complainants, Commission staff (Staff), and the Public Counsel Unit of the Attorney General's Office.
- 4 On January 10, 2023, Complainants filed direct testimony from Elena Argunov with supporting exhibits. Argunov indicated that she was testifying on behalf of the other Complainants—the Johnsons and Groesbecks—as well.¹ Argunov submits that PSE customers were not properly informed about the upgrade from AMR to AMI meters.² She argues that PSE did not follow the proper rules for AMI meters and that this caused

¹ Argunov, Exh. EACCH-1T at 1:5-6.

² *Id.* at 3:17-20.

billing for consumption “to be 4 times greater than it should be.”³ Argunov argues that PSE wrongly claims as well that its meters measure kWh, when meter configuration documentation shows that the meters measure in kW every 15 minutes.⁴ Argunov also testifies that PSE’s bills are confusing and difficult to reconcile.⁵

5 With respect to the specific customer accounts at issue, Argunov submits that PSE erroneously charged the Johnson’s account more than \$4,500 when the Johnson’s house was under construction and contractors were using a temporary outlet.⁶ Argunov testifies that her own account was issued an unexplained credit of \$1,650.23, and her attempts to resolve issues were “brushed off” by PSE and the Commission’s Consumer Protection Department.⁷ Argunov argues that there are discrepancies with the Groesbeck’s account,⁸ and that all of the accounts are far above the average kWh for PSE customers.⁹ Argunov requests that the Commission order the Company to reimburse her for her time pursuing this case.¹⁰

6 On February 6, 2023, the Commission entered Order 03, Granting Staff’s Motion to Withdraw Subject to Conditions. The Commission granted Staff’s request to draw as a party to this proceeding, subject to the condition that Staff make its witness Sheri Hoyt available at the evidentiary hearing.

7 On February 9, 2023, PSE filed response testimony. Stacey B. Halsen testified that she is a Senior Escalated Complaints Examiner with the Company.¹¹ Halsen submits that there is no evidence supporting the Complainants’ theory that they are being quadruple-billed and that, with the exception of three to four months of high usage by the Johnsons, the

³ *Id.* at 4:4-5. *See also id.* at 5:19-21 (arguing that PSE multiplies the highest daily demand value by four for unknown reasons).

⁴ *Id.* at 5:6-10.

⁵ *Id.* at 6:8-11.

⁶ *See id.* at 7:3-8:2.

⁷ *See id.* at 8:3-8.

⁸ *See id.* at 8:9-18.

⁹ *Id.* at 9:2-4.

¹⁰ *Id.* 9:22-10:2.

¹¹ Halsen, Exh. SBH-1CT at 1:8-9.

Complainants' energy usage is generally in line with others in unincorporated Kittitas County.¹² She denies that there is any systemic issue with PSE's billing.¹³

8 Halsen explains that all three of the Complainants were constructing large new homes in 2021 and 2022.¹⁴ She notes that PSE tested each of the customers' meters when requested and found them to be reading accurately.¹⁵ With respect to the Johnsons, Halsen submits that the Johnsons had three to four months of high usage, and there was evidence that they were using electricity to heat their partially constructed house.¹⁶ PSE tested the Johnsons' meter in May 2022 and found it to be accurate.¹⁷ The Johnsons requested a meter test the following month but declined it after learning there would be a charge.¹⁸ Halsen maintains that the Johnsons' bills were based on actual, not estimated, usage, but the bills were delayed so that PSE could manually review the bills before sending them.¹⁹

9 With respect to the Argunovs, Halsen argues that there is no evidence supporting the theory that the Argunovs or other homeowners were quadruple-billed and that the Argunovs' meter tested as being accurate.²⁰ Although the Argunovs received estimated bills due to meter communication issues in the area, the Argunovs received a corrected bill in July 2021 based on an actual meter read, and the Company also installed an AMI meter in August 2021.²¹ The Argunovs later requested a non-communicating meter, which was installed in June 2022.²² The Argunovs' informal Commission complaint was closed as "company upheld with violations" due to the meter not being tested within 20 business days as the rule required.²³ Halsen explains that the credit to the Argunovs'

¹² *Id.* at 2:14-17.

¹³ *Id.* at 8:9-16.

¹⁴ *Id.* at 4:8-9.

¹⁵ *Id.* at 4:12-14.

¹⁶ *Id.* at 5:5-12, 16:17-17:17. *Accord* Halsen, Exh. SBH-4 (Communications Between Johnsons and Contractors).

¹⁷ *Id.* at 15:13-16.

¹⁸ *Id.* at 16:4-7.

¹⁹ *Id.* at 18:7-19:6.

²⁰ *Id.* at 5:13-6:2.

²¹ *Id.* at 21:9-11. *See also* McClenahan, Exh. KM-1CT at 16:14-17:13.

²² *Id.* at 8:2-3.

²³ *Id.* at 21:18-21.

account reflected WAC 480-100-178(5)(a), which prohibits the Company from collecting under-billed amounts more than six months from the date the error occurred.²⁴

10 With respect to the Groesbecks, Halsen explains that the Groesbecks' AMR meter was not transmitting and that there was a period of estimated bills.²⁵ In August 2021, however, PSE issued a corrected bill based on the actual readings from the AMR meter, and the Company installed an AMI meter.²⁶ While the Groesbecks were concerned that their bills were unusually high, Halsen explains that their average kWh usage in 2022 was in line with other customers in the area.²⁷ Halsen notes that the Groesbecks' informal complaint was closed as "consumer upheld" with nine violations cited, but she explains that ultimately the Groesbecks were billed based on their actual usage.²⁸

11 Allison R. Sains is the lead PSE resource for the replacement of AMR meters.²⁹ She describes how PSE's meter data management system (MDMS) stores meter reads from both AMR and AMI meters and then provides them to SAP for billing.³⁰ Sains explains that the Company provides customers interval data for understanding their energy usage, but the Company does not use interval data for billing residential electric customers.³¹ Sains is not aware of any requirement for PSE to use interval data for such billing.³² Sains likewise disagrees with Argunov's claim that PSE is not following proper procedures for MDMS.³³

12 Kristina McClenahan, Supervisor of Billing and Payment Systems, also provided response testimony on behalf of PSE.³⁴ She provides additional information about how PSE calculates and processes billing, which she describes as the final part of a three-part process.³⁵ McClenahan explains that none of the Complainants were billed based on

²⁴ *Id.* at 22.:10-14.

²⁵ *Id.* at 4:18-5:4; 10:2-4. *Accord* McClenahan, Exh. KM-1CT at 17:14-18:16.

²⁶ *Id.* *See also id.* at 10:6-15.

²⁷ *Id.* at 12:12-18.

²⁸ *Id.* at 13:11-14:8.

²⁹ Sains, Exh. ARS-1T at 1:17-19.

³⁰ *E.g., id.* at 2:9-10.

³¹ *Id.* at 6:4-14.

³² *Id.* at 8:1-3.

³³ *Id.* at 12:12-15.

³⁴ McClenahan, Exh. KM-1CT at 1:7-9.

³⁵ *Id.* at 2:2-11.

demand.³⁶ This was true even though the Argunovs were briefly billed under commercial rates in November 2021.³⁷ McClenahan provides additional detail about how PSE issues estimated bills, issues corrected bills, and carries out automatic and manual validations of unusually high bills.³⁸

13 Engineer Ian Hagan provides testimony about how PSE meters are tested for accuracy and record energy in kWh.³⁹ Hagan explains that the Argunovs are incorrect to suggest that PSE is multiplying kW demand by a factor of four.⁴⁰ Hagan submits that PSE is following the American National Standards Institute (ANSI) standards for its meters.⁴¹

14 Aaron Tam provides response testimony on behalf of Public Counsel. Tam submits that the Groesbecks and the Argunovs received estimated bills for about a year and that their meters were not in “good order” as required by Commission rule.⁴² Tam notes that it does not appear that PSE ever tested the Groesbecks’ meter.⁴³

15 On rebuttal, Argunov testifies that PSE witness Hagan misunderstands her position. She argues that PSE’s smart meters show kWh as usage data but this “raw/uncalculated” data must be calculated to arrive at “actual consumption.”⁴⁴ Argunov submits that due to a “lack of system settings, this step is completely ignored by PSE causing extremely high overcharges (four times greater than it should be).”⁴⁵ Argunov submits that PSE is not using the correct SAP module that would “automatically” calculate interval data to bill for actual consumption.⁴⁶ She also argues that PSE is failing to properly calculate the “demand charge” for her and the other Complainants.⁴⁷ Argunov raises concerns, as well, with PSE’s plans to implement Time Varying Rates.⁴⁸ She argues that most of

³⁶ *Id.* at 8:10-11.

³⁷ *Id.* at 9:1-20.

³⁸ *See id.* at 11:15-16:5.

³⁹ Hagan, Exh. IH-1T at 2:2-4.

⁴⁰ *Id.* at 2:13-17.

⁴¹ *Id.* at 10:14-18.

⁴² Tam, Exh. AT-1T at 3:14-4:2.

⁴³ *Id.* at 4:6-8.

⁴⁴ Argunov, Exh. EACCH-27T at 1:11-18.

⁴⁵ *Id.*

⁴⁶ *Id.* at 2:15-19.

⁴⁷ *Id.* at 6:18-19.

⁴⁸ *Id.* at 10:14-19.

PSE's customer complaints are about billing issues and that this shows a "systemic issue."⁴⁹

DISCUSSION

16 In this relatively unusual case, three homeowners have joined together as the Complainants to seek review of their informal complaints against PSE. The Complainants raise an over-arching claim that PSE is not following the requirements for AMR/AMI meters, that PSE is billing them based on kW demand, and that PSE is ultimately "quadruple billing" the Complainants for their electricity usage. The Complainants and Public Counsel also argue that PSE violated several specific Commission rules regarding estimated bills, meter reading, and other issues. We address the Complainant's over-arching claim before discussing the specific violations at issue.

A. The Complainants have not established their over-arching claim or theory that PSE is quadruple billing them for electricity usage.

17 As noted above, Argunov argues on behalf of the Complainants that PSE did not follow the proper rules for AMI meters and that this caused billing for consumption "to be 4 times greater than it should be."⁵⁰ Argunov testifies that PSE is not billing the Complainants on the basis of kWh (as it claims) but is instead billing based on kW demand.⁵¹ Argunov argues that PSE's smart meters show kWh as usage data but this "raw/uncalculated" data must be calculated to arrive at "actual consumption" and that PSE failed to implement a required SAP module.⁵²

18 We have carefully considered all of the prefiled testimony, the exhibits, the testimony at hearing, and the parties' arguments. However, we find that the evidence does not support the Complainant's over-arching claims for several reasons.

19 The Company has established that it bills residential customers, such as the Complainants, based on kWh usage, not kW demand. McClenahan and other PSE witnesses credibly testify that the Company does not use interval data readings for its monthly reads for residential billing purposes.⁵³ PSE instead bills residential customers

⁴⁹ *Id.* at 14:7-11.

⁵⁰ *Id.* at 4:4-5. *See also id.* at 5:19-21 (arguing that PSE multiplies the highest daily demand value by four for unknown reasons).

⁵¹ *Id.* at 5:6-10.

⁵² *See* Argunov, Exh. EACCH-27T at 1:11-18.

⁵³ *E.g.*, McClenahan, Exh. KM-1CT at 5:19-20.

based on the starting and ending reads for each month, consistent with SAP's standard Periodic Meter Reading Process.⁵⁴ This testimony was not challenged by Public Counsel, who did not appear to join in the Complainants' arguments on this issue. This testimony was never effectively impeached by the Complainants, either. To the extent that Argunov has presented exhibits to suggest that PSE is billing based on kW demand, such as meter displays or other data, it appears that Argunov misinterprets the meters' ability to measure and record kW demand as necessarily establishing that the meters are charging her customer class based on kW demand, which is not the case. This point is persuasively addressed by PSE witness Hagan.

20 Furthermore, the Complainants have not established that PSE is using AMR or AMI meters incorrectly or contrary to any published guidance. McClenahan explains that using AMI meters to generate monthly billings does not contradict the description of AMI meters and the guidance provided by the U.S. Department of Energy.⁵⁵ Argunov's Exhibits 2.1, 2.3, and 2.4 concern the use of AMI meters for real-time pricing billing, which PSE does not use for residential customers.⁵⁶ Utilities are not required to use real-time pricing billing.⁵⁷ Hagan similarly testifies that PSE is following the American National Standards Institute (ANSI) standards for its meters.⁵⁸ PSE's testimony on this issue is credible and supported by the evidence. To the extent that Argunov has provided documents or guidance discussing AMI meters and their use, these appear to be descriptive in nature rather than proscriptive. The fact that meters have the capability to be used in another manner does not establish that PSE is required to use them in that manner. There is no persuasive evidence that PSE is failing to follow guidance on the use of AMR or AMI meters.

21 The Complainants have not established either their claim that PSE is multiplying charges by four or is otherwise quadruple billing. PSE witness Sains explains that Argunov's exhibit EACCH-6C appears to take the highest 15-minute interval usage for the day and multiplies it by four to reach an hourly load value, but this is not consistent with how PSE records or measures energy usage for these customers.⁵⁹ Sains explains further that EACCH-6C does not correctly address date cut-offs, because MDMS reports read

⁵⁴ *Id.* 6:4-7; 7:4-6.

⁵⁵ McClenahan, Exh. KM-1CT at 7:15-17.

⁵⁶ *Id.* at 19:5-8.

⁵⁷ *Id.* at 19:11-12.

⁵⁸ Hagan, Exh. IH-1T at 10:14-18.

⁵⁹ Sains, Exh. ARS-1T 10:13-17.

information each midnight that includes the prior day.⁶⁰ Sains also notes that interval load data may not match billing usage when the meter is not able to communicate with MDMS, which was true for the period from December 2021 to January 2022.⁶¹

- 22 PSE witness Hagan likewise explains that “[n]o conversion from kW demand is taking place” and that the AMI meters record kWh usage.⁶² A kWh is a standard unit of energy used by utilities to bill customers.⁶³ Although the meters also measure and record kW demand, this information is not used for billing residential customers.⁶⁴ Hagan explains that Argunov’s exhibit EACCH-3.1 does not represent the changing meter display screen, which merely indicates that the meter is capable of recording kW demand but not that it is used for billing these customers.⁶⁵ Hagan contends that Exhibit EACCH-3.2 misinterprets the meter as reading kW demand when it is actually recording consumption in kWh.⁶⁶ Hagan argues that Exhibit EACCH-3.3 likewise misinterprets the meters’ ability to measure and record kW demand as evidence of PSE’s billing, which is not accurate.⁶⁷
- 23 Argunov testifies on rebuttal that it is difficult to reconcile PSE’s bills when the kWh billed do not match the interval data.⁶⁸ Yet as we have discussed at some length, PSE does not use interval data for billing residential customers, and there is no evidence that PSE is required to do so. The Complainants over-arching claim appears to be based on a misapprehension.
- 24 Public Counsel witness Tam also agrees that PSE billed the Complainants based on kWh rather than kW demand.⁶⁹ While Tam does not directly address the theory of quadruple billing, Tam’s testimony that PSE is, in fact, billing the Complainants based on kWh undermines their theory.

⁶⁰ *Id.* at 11:1-6.

⁶¹ *Id.* at 11:15-19.

⁶² Hagan, Exh. IH-1T at 2:13-20.

⁶³ *Id.* at 3:10-11.

⁶⁴ *Id.* at 4:1-11.

⁶⁵ *See id.* at 6:8-22.

⁶⁶ *Id.* at 7:1-12.

⁶⁷ *Id.* at 7:13-8:3.

⁶⁸ Argunov, Exh. EACCH-27T at 5:6-7.

⁶⁹ *E.g.*, Tam, Exh. AT-1T at 4:3-5.

25 Thus, the credible testimony from Sains, Hagan, and Tam undermines Argunov's claims that PSE is somehow multiplying kW demand charges by four, or otherwise quadruple billing the Complainants for their electricity usage. Despite an opportunity for formal discovery, prefiled testimony, and a hearing, the Complainants have failed to establish any broader errors with respect to PSE's billing practices or its use of AMI meters.

B. Specific violations with respect to the Argunovs

26 Next, we turn to the violations of specific Commission rules. The Complainants and Public Counsel both argue that PSE violated WAC 480-100-333 (initial accuracy of electric meters), which requires meters to be tested and placed in good working order "prior to being put into service." Tam argues, for instance, that PSE's AMR meters for both the Argunovs and Groesbecks were not transmitting since installment and that both homeowners received estimated bills for about a year.⁷⁰

27 It is troubling in this case that the Argunovs' AMR meter did not transmit any reads to PSE's billing systems since it was installed. However, WAC 480-100-333 is entitled "initial accuracy of electric meters," and is expressly concerned with testing and working orders of meters "prior to being put into service." There is no evidence that PSE failed to properly test these meters or that the AMR meters themselves were faulty. To the extent that the AMR communication network suffered interruptions and outages, we find that these issues are properly considered under other Commission rules discussed below.

28 Public Counsel argues that as a result of the non-communicating AMR meters PSE also violated WAC 480-100-178(1)(i)(ii) by not having "a single billing period which was based on actual beginning and ending reads for a year."⁷¹ WAC 480-100-178(1)(i)(ii) provides, "The utility may not estimate for more than four consecutive months, unless the cause of the estimation is inclement weather, terrain, or a previous arrangement with the customer." Public Counsel's reference to the "actual beginning and ending reads for the year" is somewhat unclear, but it appears that Public Counsel is concerned with the four-month limit on estimated bills found in the rule.⁷² We agree with Public Counsel that PSE violated WAC 480-100-178(1)(i)(ii) on seven occasions between January 2021 and

⁷⁰ Tam, Exh. AH-1T at 3:14-17. *See also* Tam, Exh. AT-4C (Puget Sound Energy's Confidential Response to Public Counsel Data Request No. 10 (Attach. C)); Tam, Exh. AT-5C (Puget Sound Energy's Confidential Response to Public Counsel Data Request No. 32 (Attach. A)).

⁷¹ Tam, Exh. AH-1T at 8:5-7.

⁷² *Id.* at 8:5-8.

February 2021, for each month of estimated bills beyond the four-month limitation. This is further supported by Sheri Hoyt's testimony at the hearing.⁷³

- 29 Public Counsel also argues that PSE violated WAC 480-100-178(5)(a) by issuing a billing correction to the Argunovs more than six months from the date the error occurred.⁷⁴ However, WAC 480-100-178(8) provides that "true-up" bills following a period of estimated bills are not "corrected bills" for purpose of WAC 480-100-178(5)(a). We therefore agree with Staff witness Hoyt that there was no violation of WAC 480-100-178(5)(a).⁷⁵
- 30 The Complainants allege that PSE violated WAC 480-100-148 by failing to notify the Complainants about changes to their meters and that PSE violated WAC 480-100-103, which concerns information provided to consumers. These arguments are not supported by the evidence. Public Counsel found the Company's communications satisfied the rule and that the Company provided customers options for seeking additional information.⁷⁶
- 31 Public Counsel argues that PSE violated WAC 480-100-148(2)(c) by not maintaining its plant in a manner that allowed it to furnish "safe, adequate, and efficient service." Tam argues, "PSE's AMR meters were inadequate because they did not function as designed to automatically transmit meter readings to PSE."⁷⁷ We agree that PSE violated this rule by providing the Argunovs an AMR meter on July 23, 2020, and not obtaining an actual meter read from the device until July 29, 2021, resulting in the Argunovs receiving estimated bills for about a year.⁷⁸ This is not adequate and efficient service.
- 32 Public Counsel notes other violations of Commission rules, which were cited by Staff earlier in response to the informal complaints. With respect to the Argunovs, Public Counsel alleges that PSE violated WAC 480-100-183(3) once by failing to conduct a meter test within 20 business days when requested by the Argunovs.⁷⁹ This same

⁷³ See Hoyt, TR 135:3-6.

⁷⁴ Tam, Exh. AH-1T at 8:11-14.

⁷⁵ Hoyt, TR 137:15-138:12.

⁷⁶ Tam, Exh. AH-1T at 4:18-19.

⁷⁷ Tam, Exh. AH-1T at 5:11-13.

⁷⁸ Cf. *id.* at 8:2-5..

⁷⁹ Tam, Exh. AH-1T at 6:11-13.

violation was noted by Staff in the informal complaint, although Staff declined to take further enforcement action.⁸⁰ We agree that this violation occurred.

33 The Complainants also allege that PSE violated requirements for meter accuracy in WAC 480-100-338.⁸¹ This argument is premised on the theory that PSE began charging the Complainants based on kW demand, which is not correct.

34 The Complaint alleges violations of several other Commission rules, none of which are persuasive. The Complainants allege that PSE violated WAC 480-100-001, which states the purpose of the consumer protection rules, and WAC 480-100-013, which provides that utilities may be subject to additional requirements by statute or order. There are no specific violations of these sections.⁸² It is not evident that PSE violated WAC 480-100-108, which concerns applications for service from the utility.⁸³ Nor is it apparent that the Company violated WAC 480-100-173, which provides for utilities handling of customer complaints. The fact that PSE violated other Commission rules in this case does not establish that PSE failed to follow procedures for handling complaints.

C. Specific violations with respect to the Johnsons

35 We next turn to the Johnsons. As an initial matter, we consider the conflicting testimony about whether the Johnsons' meter accurately reflected their usage.

36 PSE witness Halsen submits that the Johnsons had three to four months of high usage, and there was evidence that they were using electricity to heat their partially constructed house.⁸⁴ In January 2022, the contractor discussed covering the garage door of the partially-constructed house with plastic to keep in heat.⁸⁵ By February 2022, "the heat is on" in the partially constructed house.⁸⁶ The house needed to be maintained at 65 degrees for the remainder of the construction.⁸⁷

⁸⁰ *See id.*

⁸¹ Formal Complaint at 2.

⁸² Complaint at 2.

⁸³ *See* Complaint at 2.

⁸⁴ *See* Halsen, Exh. SBH-1CT at 5:5-12, 16:17-17:17. *Accord* Halsen, Exh. SBH-4 (Communications Between Johnsons and Contractors).

⁸⁵ Halsen, Exh. SBH-4 at 14.

⁸⁶ *Id.* at 13.

⁸⁷ *Id.*

- 37 Although the Complainants maintain that the contractor’s schedule did not start “the electric phase” until June 2022, Argunov’s use of the term “electric phase” is either ambiguous or contrary to the communications between the Johnsons and their contractors.⁸⁸ PSE has established that the partially constructed house had electrical outlets that were available for use. The need to perform additional electrical work later does not refute this fact.
- 38 Argunov also expresses skepticism about whether space heaters could consume the amount of electricity at issue.⁸⁹ But the Commission is required to rely on the evidence of record. PSE tested the Johnsons’ meter in May 2022 and found it to be accurate.⁹⁰ The Johnsons requested a meter test the following month but declined it after learning there would be a charge.⁹¹ Halsen maintains that the Johnsons’ bills were based on actual, not estimated, usage, but the bills were delayed so that PSE could manually review the bills before sending them.⁹² Mere skepticism about the amount of electricity used by construction work or heaters in the partially constructed home is not sufficient to refute PSE’s testimony that the meter tested accurately. The Johnsons had an additional opportunity for a meter test but declined it. Given this testimony, we find that the Complainants have failed to establish the Johnsons were charged inaccurately.
- 39 Public Counsel argues that PSE appears to have violated WAC 480-100-178(1) once for issuing a delayed bill to the Johnsons.⁹³ We disagree. As Halsen testifies, the Johnsons’ bill was delayed so the Company could review it before issuing. WAC 480-100-178(1)(a) recognizes that bills may be delayed for “good cause.”

D. Specific violations with respect to the Groesbecks

- 40 With respect to the Groesbecks, the Complainants have not established that the Groesbecks were billed inaccurately. We have rejected the over-arching claim that PSE engaged in quadruple billings. We also give weight to Halsen’s testimony that the

⁸⁸ See Argunov, Exh. EACCH-27T at 14:2-3.

⁸⁹ *Id.* at 14:3-4.

⁹⁰ Halsen, Exh. SBH-1T at 15:13-16.

⁹¹ *Id.* at 16:4-7.

⁹² *Id.* at 18:7-19:6.

⁹³ See Tam, Exh. AH-1T. at 6:14-17.

Groesbecks' energy usage was comparable to other customers in the area.⁹⁴ This is not refuted by the Complainants.

41 Moving on to the specific violations, Public Counsel agrees with Staff's finding in the informal complaint that PSE violated RCW 80.28.080(1) once by charging under an incorrect schedule for General Service instead of residential service.⁹⁵ We agree that PSE violated this statutory requirement on one occasion.

42 Public Counsel agrees with Staff that PSE also violated WAC 480-100-178(1)(a) once by failing to issue a timely bill.⁹⁶ PSE did not issue a bill to the Groesbecks for three billing periods between April 2021 and August 2021.⁹⁷ We agree that this violation occurred.

43 Public Counsel agrees with Staff that PSE violated WAC 480-100-178(5)(a) on two occasions by attempting to correct charges more than 60 days after discovering the error.⁹⁸ We also agree.

44 Public Counsel further argues that the Groesbecks' AMR meter did not communicate actual reads since its installation on July 23, 2020.⁹⁹ As discussed above, we do not find that the communication outages with AMR meters establish a violation of WAC 480-100-333.

45 Tam argues that PSE violated WAC 480-100-178(1)(i)(ii) on seven occasions between January 2021 and July 2021 for each month beyond the fourth month based on estimates.¹⁰⁰ We agree. This is supported by Sheri Hoyt's testimony at the hearing as well.¹⁰¹

E. Whether penalties should be imposed

⁹⁴ See Halsen, Exh. SBH-1CT at 12:12-16.

⁹⁵ Tam, Exh. AH-1T at 6:18-7:4.

⁹⁶ Tam, Exh. AH-1T at 7:5-6.

⁹⁷ *Id.* at 7:5-8.

⁹⁸ Tam, Exh. AH-1T at 7:13-21.

⁹⁹ Tam, Exh. AH-1T at 8:2-5.

¹⁰⁰ Tam, Exh. AH-1T at 8:7-10.

¹⁰¹ See Hoyt, TR 135:3-6.

- 46 Next, we consider whether the violations of Commission rules warrant penalties. Pursuant to RCW 80.04.380, the Commission may penalize public service companies for up to \$1,000 per violation of statute, rule, order, or tariff.
- 47 With respect to the Argunovs, PSE committed seven violations of WAC 480-100-178(1)(i)(ii), one violation of WAC 480-100-148(2), and one violation of WAC 480-100-183(3). We do not find any violations of statute or rule with respect to the Johnsons. For the Groesbecks, PSE committed one violation of RCW 80.28.080(1), one violation of WAC 480-100-178(1)(a), two violations of WAC 480-100-178(5)(a), and seven violations of WAC 480-100-178(1)(i)(ii). For a total of 20 violations, PSE could be penalized a maximum of \$25,000.
- 48 The Commission’s Enforcement Policy provides that, upon finding that a public service company has violated a statute, rule, order, or tariff, the Commission will consider “whether an enforcement action, beyond technical assistance, is appropriate and, if so, which action to take.”¹⁰² The Commission considers several factors when deciding whether an enforcement action is appropriate, including, *inter alia*, how harmful or serious the violation is to the public, whether the violation was intentional, whether the company promptly corrected the violation, the likelihood of recurrence, the company’s compliance history, and the size of the company.¹⁰³ We address each of these factors in turn.
- 49 First, these issues were material for the Argunovs and Groesbecks. As Tam testifies, these violations placed the Argunovs and Groesbecks at risk of disconnection and eventually led the Argunovs to apply for energy assistance.¹⁰⁴ The Groesbecks were issued disconnection notices for nonpayment.¹⁰⁵ Even though the Argunovs and Groesbecks meters tested accurately, the periods of estimated bills resulted in high charges that were corrected only later by the Company.
- 50 Second, there is no evidence that the Company willingly and intentionally violated these Commission rules. On the contrary, PSE described having various measures in place to flag and review inaccurate bills.

¹⁰² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶ 15. (January 7, 2013).

¹⁰³ *Id.*

¹⁰⁴ Tam, Exh. AH-1T at 10:10.

¹⁰⁵ Tam, Exh. AH-1T at 9:3-7.

- 51 Third, the Company did not act promptly to correct these violations. Halsen testifies generally that COVID impacted the Company's workforce and its ability to perform work in the field.¹⁰⁶ However, Argunov established that on cross that the Governor's proclamation at issue ended on May 31, 2020, before her AMR meter was installed.¹⁰⁷ It is therefore not apparent why the Company was unable to obtain an actual read from Argunov's meter until July 2021. The Company ultimately, however, issued corrections and true-up bills as required.
- 52 Fourth, it is not clear whether these violations will recur. The COVID pandemic protocols are ending. PSE provided the Argunovs an AMI meter ahead of the planned rollout for the area, and later installed a non-communicating meter upon request.¹⁰⁸ Furthermore, PSE has undertaken a broader effort to replace AMR meters with AMI meters. However, many of the rule violations at issue in this case concern the Company's providing excessive estimated bills and issuing late corrections. It is not evident that these processes have been corrected to prevent recurrence.
- 53 Finally, the record is unclear whether the violations represent a broader problem with PSE's billing practices. As PSE established on cross-examination of Tam, Public Counsel was not concerned with the reliability of the AMR network failure rate in the Company's last rate case, and Public Counsel relied on the Company's research that the AMR meters had a failure rate below 5 percent.¹⁰⁹ But the violations found in this Order concern the Company's provision of excessive estimated bills and failing to issue timely bill corrections, among other issues. These violations took place despite the Company's established processes. Even if the AMR meters are replaced, the Company's failures with respect to these three homeowners raise some concern about the effectiveness of its practices for preventing similar problems in the future.
- 54 After considering all these factors set forth in the Commission's Enforcement Policy, we find that the Company's various protocols were inadequate to prevent the periods of excessive estimated bills, the lack of timely bills, and the lack of timely bill corrections, to both the Argunovs and Johnsons. Accordingly, we conclude that the Commission should issue a penalty for these 20 violations.

¹⁰⁶ Halsen, TR 100:7-18.

¹⁰⁷ *See id.* at 99:12-13.

¹⁰⁸ *E.g.*, Halsen, TR 119:19-23.

¹⁰⁹ Tam, TR 123:7-13.

55 A \$20,000 penalty, however, would be disproportionate to the actual violations supported by the evidence. We find that it is more reasonable, appropriate, and consistent with the Enforcement Policy to penalize the Company \$10,000 for the 20 violations at issue.

56 We do not accept Public Counsel's suggestion that it is necessary to first issue a formal complaint and begin a separate proceeding to assess penalties.¹¹⁰ Although Public Counsel refers to the limitations on complaints brought under RCW 80.04.110, this statute is concerned with who may bring a complaint that initiates a general rate case. This is not the issue at hand. The Commission may issue penalties for violations of statute, rule, order, or tariff in adjudicative proceedings.¹¹¹

57 We note that Argunov requests \$7,500 for her own time pursuing this case.¹¹² The Commission has no statutory authority to award attorney fees in this case, let alone to award fees for a pro se individual's time. Accordingly, the Commission is unable to consider this issue further.

FINDINGS AND CONCLUSIONS

58 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.

59 (2) PSE is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010 and used in Title 80 RCW.

60 (3) The Complainants have failed to establish that PSE charged them improperly based on kW demand.

61 (4) The Complainants have failed to establish that PSE is not following required protocols for calculating customer charges based on data recorded by AMR and AMI meters.

62 (5) The Complainants have failed to establish that PSE is multiplying interval data by four or otherwise "quadruple billing" customers.

¹¹⁰ See Gafken, TR 54:8-11.

¹¹¹ Cf. WAC 480-07-915(1) (delegating authority to issue penalties "outside of an adjudicative proceeding").

¹¹² Complaint at 6.

- 63 (6) PSE violated WAC 480-100-178(1)(i)(ii) on seven occasions by issuing estimated bills to the Argunovs between January and July 2021, beyond the four-month limitation in rule.
- 64 (7) PSE violated WAC 480-100-148(2) on one occasion by failing to provide safe, adequate, efficient service to the Argunovs when it installed an AMR meter and failed to obtain any actual reads from that same meter until July 2021.
- 65 (8) PSE violated WAC 480-100-183(3) on one occasion by failing to test the Argunovs' meter within 20 days upon request.
- 66 (9) PSE did not violate any statute, rule, or order with respect to the Johnsons.
- 67 (10) PSE violated RCW 80.28.080(1) on one occasion by billing the Groesbecks under an incorrect schedule.
- 68 (11) PSE violated WAC 480-100-178(1)(a) by failing to issue a timely bill to the Groesbecks.
- 69 (12) PSE violated WAC 480-100-178(5)(a) on two occasions by attempting to issue corrections to the Groesbecks' bills more than 60 days after discovering the error at issue.
- 70 (13) PSE violated WAC 480-100-178(1)(i)(ii) on seven occasions by issuing estimated bills to the Groesbecks between January 2021 and July 2021, beyond the four-month limitation in rule.
- 71 (14) The 20 violations caused harm to the Argunovs and Groesbecks, placing them at risk of disconnection for nonpayment.
- 72 (15) Even if the AMR meters are replaced over time, the violations raise credible concern that the Company's practices have failed to prevent excessive estimated bills, delayed corrections, and other violations of Commission rules.
- 73 (16) The Commission should penalize the Company \$10,000 for the 20 violations at issue consistent with the factors set forth in the Commission's Enforcement Policy.

ORDER

74 THE COMMISSION ORDERS THAT:

- 75 (1) Puget Sound Energy is assessed a penalty of \$10,000, which must be paid
within 30 days of the effective date of this Order.
- 76 (2) The Commission retains jurisdiction over the subject matters and parties to
this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective May 15, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard
Michael S. Howard
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-825(2)(a) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file a response to a Petition within 10 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal, as required by WAC 480-07-140(5).