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Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
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COMMISSION

Re: Docket U-180525: PSE Follow-up Comments to the July 13, 2020 Public Hearing

Dear Mr. Johnson:

Puget Sound Energy (“PSE”) appreciates the opportunity to provide some brief follow-up comments to reinforce and respond to some of the comments made at the July 13, 2020 CR-102 Public Hearing (“Hearing”), as well as elaborate on one specific and significant concern with the clarifying redlines provided by Staff in the docket dated July 6, 2020.

Proposed WAC 480-100-023: Definition of Written Consent

PSE appreciates that the definition of “written consent” includes consent obtained in electronic copy. As PSE suggested at the Hearing, this definition should be broadened slightly to capture keypress consent, which is unambiguous, logged consent conveyed by pressing a button on a telephone in response to a prompt such as “Press 1 to consent.” As discussed at the Hearing, a second prompt to confirm a customer’s consent could be added as a safeguard to ensure that the original keypress consent provided was intentional and not inadvertent.

Proposed WAC 480-100-128: Disconnection of Service

Subsection (6)(b)

PSE supports Avista’s comments at the Hearing regarding the remote disconnection time frame. Allowing remote disconnections to occur until 3:00 p.m. still allows adequate time for the customer to resolve the reasons for disconnection and be reconnected the same day. It also would allow PSE to stagger customer calls throughout the day, keeping call volumes more manageable.

Subsection (6)(c)

At the Hearing, Public Counsel suggested the premise visit requirement for medical necessity should be extended to two years, suggesting that the initial 60 day duration of a medical certificate may not be sufficient. PSE can appreciate that, in certain situations, 60 days may be too short. In those cases, the customer can seek an extension of the medical certificate pursuant to subsection (8), or, in the case of PSE's customers, communicate the ongoing medical need, and a different type of designation, such as life support, can be placed on the customer's account. In other cases, though, a customer's medical necessity may be short in duration. It is PSE's position that the draft rule, as written, strikes the appropriate balance.

Proposed WAC 480-100-128(6)(e) and Proposed WAC 480-100-133(2): Disconnect and Reconnect Fees

With respect to fees to disconnect or connect service, PSE still prefers the previous rule language, which generally prohibited a utility from charging a fee for remote disconnection or reconnection, but left the door open for the utility to seek permission to charge a fee through a tariff filing. While PSE does not anticipate charging a fee for remote disconnection or reconnection at this time, PSE would prefer the rule remain flexible on this point and allow utilities to request fees through a tariff filing, if appropriate.

Proposed WAC 480-100-153(19): Breach Notification

While PSE appreciates the efforts made by staff in the July 6 proposed redlines to revise this subsection, the revisions do not alleviate PSE's concerns.

As revised, this section appears to apply the breach notification requirements in RCW 19.255.010 to both "personal information" as defined in that statute as well as "customer information" as defined under the proposed regulations. This considerably broadens the breach notification requirements of RCW 19.255.010 to encompass types of "customer information" that would not typically require notice of breach. PSE urges the Commission to reconsider this approach. The expansion would require notification of security breaches that do not result in harm, which increases compliance costs and could lead to customer confusion. Additionally, this approach introduces ambiguity regarding what constitutes a "security breach."

For example, a customer's name is "customer information" under the proposed regulations, but is not considered "personal information" under RCW 19.255.010. Names, without more, are also public information. Providing notice of a breach involving customer names or other public information would likely lead to customer confusion. Customers are accustomed to receiving notices of breach only when the breach involves personal information that could be used in ways that result in consumer harm (for example, to engage in identity theft). That is not the case with public information, and customers may have difficulty understanding how to evaluate a breach notification regarding public information.

Similarly, the definition of "customer information" includes aggregated data, but aggregated data would not qualify as "personal information" under RCW 19.255.010. Again, sending a notice

regarding a breach of aggregated data could potentially lead to customer confusion. Requiring notice of a breach of aggregated data also removes one of the incentives to aggregate data in the first place.

PSE is also concerned about the ambiguity in this section concerning what constitutes a “security breach.” The “security breach” prompting notification is not defined. The first sentence of this section refers to RCW 19.255.010 (which does define it), but the second sentence does not, stating merely, “If a security breach involves disclosure of customer information other than personal information...” Under RCW 19.255.010, disclosure of customer information other than personal information is not a security breach.

It is therefore unclear whether a “security breach” under this rule would include or exclude such things as viewing but not acquiring information, accidental disclosure of customer information to employees or agents, loss or deletion of information with no involvement of third parties, and other lower-risk incidents.

PSE strongly urges the Commission to set this rule language aside and rely on the existing protections contained in RCW 19.255.010 for personal information. In the alternative, PSE continues to recommend the following revisions to subsection (19) to address these concerns:

(19) The utility must notify customers of any security breach involving disclosure of personal information as defined in RCW 19.255.010 in accordance with that statute. ~~If a security breach involves customer information that does not contain such personal information, the utility shall notify customers and the commission as soon as practicable of the breach and the measures the utility is taking to remedy the breach.~~ The utility must take all reasonable measures including, but not limited to, cooperating fully with law enforcement agencies, to recover lost information and prevent the loss of further customer information.

PSE appreciates the opportunity to provide comments as a follow-up to last week’s Hearing. Please contact Kara Durbin at (425) 456-2377 for additional information about these comments. If you have any other questions please contact me at (425) 456-2142.

Sincerely,

/s/ Jon Piliaris

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