

RATES AND REGULATORY AFFAIRS
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August 17, 2001

Secretary
Washington Utilities &
Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

Re: Docket Number UG-990294 *UE-990473*
WAC 480-90-123 Refusal of service.

NW Natural appreciates the opportunity to provide further comment in this matter.

The current rule inexplicably empowers utility customers to avoid paying utility bills, and at the same time strips the utility of its rights to collect monies owed for services rendered. The existence of such an inequity in a Commission rule is baffling.

Throughout this review process, staff has struggled with the inherent inequity of the rule, focusing primarily on finding a balance between the needs of consumers and the needs of utilities. We believe that staff's proposal to limit the number of times a consumer can incur a prior obligation in a single calendar year was a sincere attempt to achieve a reasonable balance. Except that it does not.

The problem with unlimited prior obligations as exists in the current rule is obvious, and NW Natural was pleased that the Commission acknowledged these problems in the last public meeting on August 8, 2001. From NW Natural's perspective, retaining the existing provisions (Alternative 4) is not a viable option.

Even the limitation of three, or even two, prior obligations in one calendar year (Alternatives 1 through 3) is extremely problematic. Here's why:

A customer is most likely to find themselves in a prior obligation situation in the fall and winter months, October through March, commonly referred to as "the heating season". Since the typical heating season is spread between two calendar years, each of staff's alternatives would allow a customer - nearly any customer - the opportunity (actually, the right), to avoid paying their bill during

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most or all of a heating season – a period as long as six consecutive months. Imagine the devastating effect this would have on any utility's financial stability if large numbers of customers chose this option. Neither the current or proposed rules preclude this from occurring, nor do they protect the utility from exposure to the occurrence of such events. Further, no amount of historical data can provide sufficient information for anyone today to say with any certainty that a utility will not incur significant financial risk in the future.

We would like to think that a rational person, when faced with the decision as to which bill to pay, would pay for essential needs items first – i.e. utility service. However, a rule such as exists today, or as is proposed by staff, would allow consumers, rational or otherwise, to pay their credit card bill instead, because the rules give them the right to continue to receive utility service without having to pay for it. We would all be fools if we didn't think a consumer would make that choice under the right circumstance if given the opportunity. What would stop a consumer – even one that has the ability to pay – from exercising this rule-given right? Nothing.

We believe that most customers want to pay their bills. But, it's no secret that utility rates have steadily risen over the last couple of years, and with continuing increases likely, more and more consumers, not just low-income consumers, will be struggling to pay their utility bills. Today, NW Natural first always attempts to enter into a payment arrangement with the consumer that is struggling because it is in both parties best interests to do so. Unfortunately, our ability to continue to work in this way with customers diminishes considerably when a rule like this exists in a rising price environment. Why? Because as consumers face greater financial strain, they become more likely, and more willing, to revert to exercising their rights to avoid payment over agreeing to make payment arrangements, especially if doing so would bring them substantial financial relief.

Public Counsel and others have argued that if the utility is allowed to collect prior obligation monies, that low-income customers are harmed. We are sympathetic with Public Counsel as we understand that assistance for low-income customers is limited. But, Public Counsel is using this rule as a forum to resolve consumer protection issues, and this is not the proper forum for that effort. Further, the current and proposed rules do not limit the utility's exposure to just low-income situations – the rules expose the utility to a far greater financial risk with customers at all income levels.

Early in the rules review process, NW Natural submitted in its comments a suggestion that staff consider adopting a rule that is similar to that in effect in the state of Oregon today. The Oregon rule allows the utility to collect one-half of the past-due amount, plus the deposit and reconnection charges. The remainder of the past due amount owed is then payable within 30 days. This would seem a

fair and equitable solution as it creates an equal give and take position as between the customer and the utility. Staff did not directly respond or comment back to the company about this suggestion. The lack of response was taken as an indication that staff did not consider the suggestion to be viable. However, NW Natural continues to think that our original suggestion is a viable one, and one that offers a fair and reasonable solution to the issues posed by all participants in this proceeding. We urge the Commission to consider this alternative, or some variation thereof, in its deliberations in this docket.

For the Commission's assistance, we include the changes proposed by NW Natural early in the comment period. The language here is identical to the original submission, except that the residential customer clarification has been added.

(2) Except for a residential applicant or residential customer that was disconnected for theft of service, a residential applicant for service that was disconnected for nonpayment within the previous twelve (12) months may receive service upon payment of at least one-half of the overdue balance, plus the full deposit amount, and any reconnect or other applicable charges. The remaining overdue balance must be paid to the utility within thirty (30) days of the date service is initiated. If a customer fails to pay the remaining overdue balance, the utility may disconnect service pursuant to WAC 480-90-071(3)(B)(v). If service is again disconnected for nonpayment, the utility may refuse to restore service until the utility receives full payment of any overdue obligation, including any reconnection fee and past due bill.

At the very least, the Commission should consider restricting the prior obligation provisions of this rule to qualifying low-income customers only.

Thank you again for the additional opportunity to comment in this proceeding.

Sincerely,

NW NATURAL

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Tariff Consultant