

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 21, 2017

REGULAR  CONSENT  EFFECTIVE DATE March 1, 2017

DATE: February 15, 2017

TO: Public Utility Commission

FROM: George Compton and Lisa Gorsuch

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PACIFIC POWER: (Docket No. UM 1631) Requests waiver of Oregon Administrative Rule (OAR) 860-021-0405(9) and (11), to allow the Company to discontinue collecting payment at the door.

**STAFF RECOMMENDATION:**

Staff recommends that Pacific Power's (PacifiCorp or Company) request for waiver of specific provisions of Oregon Administrative Rule (OAR) 860-021-0405(9), (9)(b)(B), and (11) be approved, effective March 1, 2017, with a sunset date of March 1, 2019.

**DISCUSSION:**

Issue

Whether the Commission should approve the Company's request to waive various Oregon Administrative Rule (OAR) requirements to allow the Company to continue its practice of not making personal contact with the customer at the residence on the day of disconnection, expanding the window of time by one hour during which the Company can call remote disconnection customers to notify them of proposed disconnection, and declining to accept payment from a customer while in the field.

Applicable Rule or Law

Commission rules governing disconnection of residential electric service apply to this filing. Specifically, OAR 860-021-0405(9) requires the utility to make a good-faith effort to personally contact the customer or an adult at the residence to be disconnected on the date of disconnection of service; OAR 860-021-0405(9)(b)(B) requires the utility to make outbound calls during the hours of 6:00 p.m. and 8:00 p.m. to the customer to be

disconnected for three consecutive days prior to disconnection (for customers with remote disconnect capability is installed); and OAR 860-021-0405(11) empowers the utility, when personal contact is made, to accept reasonable partial payment from a customer.

The Commission may waive any of the Division 21 rules upon receipt of a written request for waiver from a utility and upon good cause shown. Pacific Power requests this waiver pursuant to ORS 756.040 and OAR 860-021-0005.

### Analysis

#### *Background*

In the autumn of 2013, informal workshops were held regarding the occasional severe safety risks associated with the then-current practice of a utility employee attempting to make a personal contact while onsite for the purpose of disconnecting service and being “empowered” to collect a payment sufficient to prevent that disconnect. In early 2014, Pacific Power applied for and was granted waiver of OAR 860-021-0405(9) and (11), which pertain to those practices.<sup>1</sup> The Company’s rationale for ending in-person contact while onsite to disconnect service was that the required personal contact had resulted in incidents where “verbal threats, physical incidents, or threats involving weapons/dogs” were made to the Pacific Power employee. The Company explained that on-premise disconnect by a utility employee—accompanied by a law enforcement officer if necessary—would still take place, but avoiding the knock on the door and personal contact would reduce the chance of a hostile confrontation with the customer.

Currently, the only Pacific Power jurisdiction that requires the Company to collect volunteered payment in the field is the state of Washington. With regard to Pacific Power’s other jurisdictions, the Company reported in its January 6, 2017 petition that it had not received customer complaints due to discontinuance of field payment collections in those states.

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<sup>1</sup> OAR 860-021-0405(9): “The energy utility must make a good-faith effort to personally contact the customer or an adult at the residence to be disconnected on the day the energy utility expects to disconnect service or, where the service address has remote disconnection capability installed, at least three business days prior to the day the energy utility expects to disconnect service.”

OAR 860-021-0405 (11): “When the energy utility makes a personal contact under this rule, the utility’s representative making contact is empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.”

### *Current Practice*

Current steps taken by the Company prior to service disconnect include the following<sup>2</sup>:

1. Past due notice is sent in conjunction with the next month's bill following non-payment. As required by rule, the past due status is made clear along with the new and past due charges, and the due date.
2. A single outbound call, text or email is delivered as a courtesy.
3. A final notice is mailed indicating the past due amount and due date for past due amount as required by OAR 860-021-0405.
4. An outbound call is made prior to the service disconnection, as agreed upon pursuant to the previous UM 1631 petition.
5. If no payment is forthcoming, service is terminated at the utility's convenience.

In addition to the traditional mailing of payment to the Company, to facilitate timely overdue payments, there are now 85 pay stations (mostly in Fred Meyer stores) where the Company can receive cash, checks, or money orders, in addition to the ability of the customer to make payment by telephone or on the Company's website.

### *Waiver Request*

With regard to OAR 860-021-0405(9), the Company has requested a continued waiver of the requirement to knock on the customer's door or otherwise make personal contact immediately prior to service disconnection. Staff reviewed the Company-provided history of the number of physical incidents, verbal threats, and incidents involving weapons or dogs listed in the Company's application and finds not entirely compelling the personnel safety argument for vacating the personal contact requirement. It turns out that threat encounters have been on average 30 percent *greater* for the last three years when the no-knock policy has been in place as compared to the prior three years—i.e., for a recent annual average of 48 events versus 37 previously. It is difficult to identify what might be causing the trend of mounting hostility; instead one can only speculate how much worse things might have been without the waiver.<sup>3</sup>

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<sup>2</sup> These are found on page 5 of the Company's application, and supplemented through a conversation with Pacific Power's Regulatory Projects Manager, Jason Hoffman.

<sup>3</sup> What is corroborated is only the claim (seen on page 4 of the Pacific Power application) that "Customers are exhibiting a more emboldened attitude of violence towards Company employees and the threat of potential harm is more serious now than in November 2013 when the first waiver request was filed."

The stronger argument now for the personal contact waiver is the Company's description of increased ease and convenience of making payment that now exists—with "the 85 pay stations...[and] through the Company's website and pay-by-telephone." That convenience makes less compelling the original basis for the personal contact requirement, i.e., to provide the customers with a last-chance opportunity to pay their bill and avoid a disconnect.

Without joining any speculation regarding how much greater the threat count would have been absent the contact requirement waiver, Staff believes that the minor benefit to customers from denying the waiver is not sufficient to justify the genuine threat potential to utility representatives in the field and added cost to the Company. Those costs relate to having to make repeated attempts to contact the customers, including the possibility of multiple visits to a customer's premise as part of the OAR-required good-faith effort to make the personal contact. With all that in mind, Staff recommends that the waiver request regarding OAR 860-021-0405(9) be granted.

Waiver of OAR 860-021-0405(9)(b)(B) was not requested by the Company in the 2014 application. This rule pertains to residential customers where the Company has remote disconnect capability—which is not planned for deployment until 2018. However, this rule requires that the Company place daytime and evening telephone calls to these customers to notify them of a pending disconnection, while also "encourage[ing] communication with the utility prior to the disconnection of services" itself. The waiver request is not really a waiver, but instead asks to expand the evening timeframe for calls from between 6:00 and 8:00 p.m. (as in the rule) to between 5:30 and 8:30 p.m. Staff agrees that expanding the timeframe by one hour should increase the chances of timely communication with customers and recommends an approval of the Company's request.

In the current petition, Pacific Power also seeks a continuation of a waiver of OAR 860-021-0405(11), thereby preserving the Company's current policy of not accepting payment to a utility representative when the physical service disconnect occurs onsite. The Company says (on page 2 of its application), "In addition to the threat to Company employees whilst disconnecting service, the employees had [i.e., prior to the waiver] the potential to experience a hostile interaction while carrying or collecting money. Field employees who are known to carry money in their vehicle were inherently at a greater risk for attack or being robbed on their daily routes."

Staff is not completely moved by those arguments. First, the expressed policy of not allowing *cash* payments might eliminate the robbery-on-the-daily-route potential. With regard to "the potential to experience a hostile interaction while...collecting money," Staff fails to see how accepting a *volunteered* payment would cause its own safety

hazard. The fact that such a customer might offer to make a *non-cash* payment at the time of the intended disconnect does not add to the Company representative's exposure to whatever threats justified the waiver of OAR 860-021-0405(9). A customer who desires to make a bill payment will likely not, for example, sic his dog on the very person to whom he wants to make that payment.

Nonetheless, despite Staff's belief that the acceptance of a volunteered, non-cash payment does not make circumstances more hazardous, Staff still finds merit in a waiver of OAR 860-021-0405(11). The rare occasion where a customer could not take advantage of the broad array of alternative payment venues and instead needed to make on-premise payment would not seem to justify the global re-training of customer representatives and the other expenses (including of a utility representative having to make a second disconnect visit in the event of an accepted check that fails to clear) that would go along with having the Company alter a policy and practice that has been in effect for several years with no customer complaints. Finally, as discussed below, a rulemaking will be undertaken with stakeholder involvement to revise the rules to better address all the policy issues associated with onsite disconnection of service.

In its 2014 recommendation that the Commission allow waiver of OAR 860-021-0405(9) and (11), Staff noted that the waiver should be limited to three years in anticipation of a completed Division 021 rulemaking that would revise the rule provisions at issue and other matters. Revisiting the Division 021 rules was expected after the completion of a general rule revision to the Division 036 Water Utilities and Associations Rules, which was in progress at the time. As it so happens, the Division 036 rulemaking was completed in January 2017, but a Division 021 rulemaking has yet to begin. At this time, Staff recommends limiting Commission approval of Pacific Power's waivers for a period of two years to allow Staff and parties to permanently address these practices as part of the upcoming Division 021 rulemaking.

### Conclusion

Staff concludes that the Company's waiver requests are warranted and should be granted.

**PROPOSED COMMISSION MOTION:**

Approve Pacific Power's request for waivers pertaining to OAR 860-021-0405(9), (9)(b)(B), and (11), so as to eliminate the requirement that the Company make personal contact at the time of service disconnection; to expand by one hour the evening time interval for outbound calls warning of disconnection to customers with remote disconnect capability; and to preclude the acceptance of partial payment of the overdue balance at the time of disconnect, effective on March 1, 2017, with a sunset provision of March 1, 2019.