

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 7, 2006

REGULAR X CONSENT EFFECTIVE DATE Upon filing with the
Secretary of State

DATE: January 27, 2006

TO: Public Utility Commission

FROM: Deborah Garcia

THROUGH: Lee Sparling, Ed Busch, and Judy Johnson

SUBJECT: AR 505: Adoption of temporary rule 860-021-0328 Reconnection of Service.

STAFF RECOMMENDATION:

I recommend the Commission adopt temporary Oregon Administrative Rule 860-021-0328 (see Attachment A) and allow it to go into effect upon filing with the Secretary of State's office.

DISCUSSION:

Background

The purpose of this temporary Oregon Administrative Rule (OAR) is to ensure that all eligible Oregon natural gas residential customers¹ are reconnected in a timely manner after an involuntary disconnection. Eligibility for reconnection is established when the customer satisfies the requirements related to the deficiency that led to the disconnection, and has requested service to be reconnected. For purposes of this memo, we will call this issue reconnection. Currently, no OAR specifies when a natural gas utility (LDC) must reconnect a customer's service under these circumstances. Until recently, this has not been an issue for Oregon customers because all of the LDCs had timely reconnection policies in place.

The issue of timely reconnection recently came to Staff's attention when the Public Utility Commission's Consumer Services section (PUCCS) reported receiving consumer complaints that NW Natural (NWN or Company) was quoting very long (6-10 days)

¹ Customers who are involuntarily disconnected are actually referred to as "applicants" in the Oregon Administrative Rules.

times for reconnection. Staff began gathering related information via data requests from NWN regarding its staffing levels that included, among other things, the number of budgeted and actual employee hours for December and January for the years of 2003/4, 2004/5, and 2005/6. Although NWN has had customer growth of approximately 3% annually over the past several years, the data response shows that staffing and budgeted hours increased for year 2004/5 over 2003/4 levels but were reduced in year 2005/6 to levels below that for year 2003/4, even after taking into consideration that NWN states it has five employees that were not working due to disability claims. In response to Staff's investigation, NWN met with Staff to provide a copy of, and answer questions about, NWN's newly established internal policy guidelines that assign a priority rating to various types of service calls and include a maximum turnaround time for each type of call, including reconnections. For reconnections, NWN has established a maximum turnaround time of three business days, which can actually take five calendar days. For example, the PUCCS received a complaint from a customer who requested reconnection on Wednesday, January 25, 2006 and was given a Monday, January 30, 2006 reconnection date that was not changed until the customer complained to a supervisor.

NWN claims the rating guide for scheduling field service work is necessary so that it is able to provide good service to the majority of its customers who need service calls for other reasons, rather than "better" service to customers who are involuntarily disconnected. NWN claims that because it must interrupt the schedule of a service person in order to reconnect service for a customer that is involuntarily disconnected, this in turn causes delivery of a lower quality of service to those customers whose regularly scheduled service calls are delayed. NWN asserts that its new process has a built-in behavior modification element that is designed to discourage customers from allowing their service to be disconnected in the first place. At the end of this process, NWN foresees more efficient field operations that will provide a higher level of service at a lower cost. NWN further asserts that absent this process, the only other remedy would be to hire, at ratepayer expense, additional staff that would not ordinarily be needed during the warmer part of the year. NWN has not been able to explain why this year is different than any other year or why its operations are different than the operations of the other two Oregon LDCs. NWN stated that its new policy is also currently in effect for its Washington operations.

After meeting with NWN, Staff reviewed the rules governing reconnections that have been adopted by the states of Washington² and Idaho.³ Both states have a 24-hour requirement for reconnection.

Staff contacted the other two Oregon LDCs, Avista Utilities and Cascade Natural Gas (Cascade), to inquire about their reconnection policies for Oregon customers. Each responded that they mirror the requirements that govern their operations in Washington and Idaho by restoring service as soon as possible, but no later than 24 hours after the customer has met the requirements to correct the deficiency that led to the disconnection, and requests service. Neither of these LDCs objects to Commission adoption of this rule. When Staff questioned Cascade about whether the LDC has experienced difficulty this winter in completing timely reconnections, the answer was no. This winter is no different than any other winter in that Cascade always plans ahead for its operations and ensures that the plan includes sufficient staffing levels.

Staff spoke to a manager at the Washington Utilities and Transportation Commission (WUTC) who confirmed that the issue of timely reconnection following disconnection has become a problem for NWN customers in Washington, too. Staff's understanding is that while the WUTC has and continues to interpret its rule to require reconnection within 24 hours, NWN is challenging the interpretation due to the words, "must make every reasonable effort" that are included in the rule.

Staff rejects NWN's line of reasoning to justify the establishment of a maximum three business day turnaround time for reconnection. It is an LDC's obligation to plan for reasonable staffing levels that allow for day-to-day operations to be conducted on a timely basis, regardless of the season. This planning should also cover contingencies, such as personnel who are ill or otherwise unable to work. Staff asked, and NWN responded, that it rejected considerations such as limiting disconnections done each day to allow sufficient personnel to reconnect services, thereby limiting disruption of scheduled work for other customers. Staff also questioned and NWN did not answer how it justified the decrease in revenues it experienced from the delay of reconnecting service. Staff assumes that the decoupling measure that is currently in place holds NWN immune to revenue reductions such as delays in reconnecting service. It appears that nothing has changed this year from years past except for the level of staffing NWN

² Chapter 480-90-133 of the Washington Administrative Code says in part, "(1) A gas utility must make every reasonable effort to restore a disconnected service within twenty-four hours, or other time mutually agreeable between the customer and the utility..."

³ Section 311.02 of the Idaho, Utility Customer Relations Rules says, "Each utility shall have personnel available after the time of termination who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the utility's satisfaction. Service shall be reconnected as soon as possible, but no later than twenty-four (24) hours after the utility's conditions are satisfied and the customer requests reconnection."

is willing to acquire and pay for to run its winter operations, and/or how field work is planned and scheduled.

NWN claims its staffing levels are adequate because they meet the levels approved by the Commission in NWN's last rate case. Staff has not completed an audit on this issue but regardless, Staff does not believe the argument is valid to justify delays in reconnection. An LDC is required to provide appropriate customer service. In the course of doing so, if the LDC believes the level of expense justifies higher customer rates, the LDC has the right to file for rate recovery.

Need for Temporary Rule

Oregon Revised Statute 183.335(5) allows an agency to temporarily adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice or hearing that is practicable if it complies with specific temporary rulemaking requirements. The requirements include an agency finding, based on specific reasons, that failure of the agency to act promptly will result in serious harm to the public interest.

Generally, Staff does not believe that an apparent deficiency in customer service by a single LDC justifies the adoption of a temporary administrative rule. However, in this case Staff is concerned about the Oregon customers that include children, the elderly, and the infirm who are now sitting at home for up to three business days, or in some cases five calendar days, with no natural gas service for everything from heat, hot water, to cooking equipment.

Although Staff agrees that every LDC has the responsibility to work efficiently and to make the best use of ratepayer dollars, Staff believes the implementation of this reconnection policy constitutes substandard service. Staff concedes that some customers who are involuntarily disconnected may be disconnected due to reasons within their control and therefore able to be "conditioned" to make timely payments to avoid disconnection. However, NWN's policy also affects those individuals who, through no fault of their own, simply cannot raise enough money in time to avoid disconnection of service. To add to the hardship of a customer in this situation by a delay in reconnection is unjustified.

During discussions with Staff, NWN was clear that this new policy of a maximum three business day turnaround time for reconnection was not a stop-gap measure due to some unforeseen weather, planning, or staffing levels, but was a new policy that was approved at the "corporate level" for service now and in the future. Staff believes that absent Commission adoption of the proposed temporary OAR, the result will be the continuation of serious harm to customers who are dependent on the PUC to protect them from any unreasonable policy that might be adopted by a monopoly utility.

Adoption of the temporary OAR will also prevent any other LDC from adopting cost-cutting measures this winter that would result in a similar provision of inappropriate customer service to a segment of that LDC's customers. Oregon customers do not deserve a lower standard of service than the other LDCs' customers that are being served in Washington or Idaho.

As soon as possible, Staff intends to bring a request to the Commission to open a permanent rule making docket to investigate this issue. Generally, Staff makes such a request simultaneously with the request for a temporary rulemaking. Because of insufficient time, Staff would have had to delay bringing this issue to the Commission's attention until the next public meeting. Staff feels the urgency of the situation justifies separate requests.

NWN advised Staff that it intends to object to Staff's request on the basis of the information Staff provided above, as well as other issues such as the number of complaints the Consumer Services section has received. Staff does not believe the number of customer complaints the PUCSC receives should be the determining factor as to whether or not a level of service is appropriate.

Currently, Staff sees the following three choices that the Commission could make for this matter:

1. Deny Staff's proposal to adopt a temporary rule and keep the status quo for customers.
2. Deny Staff's proposal to adopt a temporary rule and direct Staff to open a permanent rule making investigation in which the status quo would be maintained for customers through this heating season, while an investigation is conducted.
3. Accept Staff's proposal to adopt a temporary rule and provide immediate relief to customers eligible for reconnection through this heating season while an investigation is conducted to determine whether this or a similar permanent rule should be adopted.

PROPOSED COMMISSION MOTION:

The temporary rule OAR 860-021-0328, docketed as AR 505, be allowed to go into effect upon filing with the Secretary of State.

860-021-0328

Reconnection of Natural Gas Service

A natural gas utility must reconnect service after an involuntary disconnection, if the applicant has satisfied the requirements for reconnection. Service must be reconnected as soon as possible, but no later than twenty-four (24) hours after the applicant meets the conditions for reconnection and requests reconnection.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.325

Hist.: NEW