

CERTIFICATION

I do hereby certify that the attached Department Policy and Procedure is a true and accurate copy of the original instrument as it is on file at the Department.



City of Seattle

Seattle City Light Department

*David Madsen* Date: 01/10/12

DEPARTMENT POLICY & PROCEDURE

City Light Department

Subject

Number

DPP P III-416

Effective

January 11, 2012

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November 16, 1982

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CURRENT DIVERSION

*Jorge Carrasco*

Approved by Jorge Carrasco

1.0 Purpose

1.1 To establish procedures for preventing, detecting, reporting, investigating, and correcting illegal, unauthorized, or inadvertent diversions of electric current and recovering lost revenue and costs from such diversions.

2.0 Organization Affected

- 2.1 Accounting Division
- 2.2 Customer Care Division
- 2.3 Energy Delivery Operations Division
- 2.4 Finance Division
- 2.5 System Operations Division

3.0 References

- 3.1 RCW 9A.48.070 "Malicious mischief in the first degree," or as the same may be amended or superseded,
- 3.2 RCW 9A.48.080 "Malicious mischief in the second degree," or as the same may be amended or superseded.

- 3.3 RCW 9A.48.090 "Malicious mischief in the third degree," or as the same may be amended or superseded.
- 3.4 RCW 9A.56.030 "Theft in the first degree," or as the same may be amended or superseded.
- 3.5 RCW 9A.56.040 "Theft in the second degree," or as the same may be amended or superseded.
- 3.6 RCW 9A.56.050 "Theft in the third degree," or as the same may be amended or superseded.
- 3.7 RCW 9A.61 "Defrauding a public utility," or as the same may be amended or superseded.
- 3.8 RCW 9A.76.180 "Intimidating a public servant," or as the same may be amended or superseded.
- 3.9 RCW 80.28.240 "Recovery of damages by utility company for tampering, unauthorized connections, diversion of services," or as the same may be amended or superseded.
- 3.10 SMC 12A.08.020 "Property destruction," or as the same may be amended or superseded.
- 3.11 SMC 12A.08.060 "Theft," or as the same may be amended or superseded.
- 3.12 SMC 12A.08.090 "Possessing stolen property," or as the same may be amended or superseded.
- 3.13 SMC 12A.08.100 "Appropriation of lost or misdelivered property," or as the same may be amended or superseded.
- 3.14 SMC 21.49.110 "Electric service connection provisions," including but not limited to Subsection K, "Authorized Service Connections," Subsection M, "Maintenance of Safe Wiring," and Subsection P, "Meter Tampering Protection," or as the same may be amended or superseded.
- 3.15 SMC 21.49.120 "Equipment and facilities provisions," including but not limited to Subsection C, "Vandalism and Disconnection of Electrical Equipment," and Subsection G, "Current Diversion," or as the same may be amended or superseded.
- 3.16 SMC 21.49.130 "Authority," including but not limited to Subsection E, "Special Service Charges and Interest Charges," and Subsection F, "Recovery of Service Disconnection Costs," or as the same may be amended or superseded.
- 3.17 SMC 21.49.140 "Offenses and penalties," or as the same may be amended or superseded.
- 3.18 DPP 500 P III-413 Resolving Customer Electrical Service Problems.

#### 4.0 Definitions

- 4.1 Appropriate Authorities. The law enforcement agency with jurisdiction over the premises being investigated for current diversion. Within the Seattle City Light service area; these may include

the police departments and prosecuting attorneys of the cities of Seattle, Burien, Lake Forest Park, Renton, Shoreline, and Tukwila, the King County Sheriff, and the Port of Seattle Police.

- 4.2 Current Diversion. An unauthorized condition that results or may result in inaccurate registration or lack of registration on a Department owned or operated meter or meters of the full amount of electrical energy supplied by the Department to a customer's premises.
- 4.3 Current Diversion Coordinator. An employee of the Technical Metering Unit who, under the direction of the Customer Care Division Director or his or her designee, coordinates the current diversion program which includes but is not limited to: prevention, detection, reporting, investigation, and correction of current diversions, and recovery of lost revenue and costs incurred by the Department in connection with current diversions; maintains files; conducts interviews with customers or other individuals suspected of diverting current, and with individuals that may have knowledge of a current diversion; coordinates development of technical and investigative resources; communicates with local law enforcement as appropriate, and assists in preparing cases for possible legal action.
- 4.4 Customer. Any person, firm, corporation, government agency, or other entity that uses, has used, or has contracted for electrical service from the Department.
- 4.5 Department. Seattle City Light Department.
- 4.6 Meter Bypass. Any method, device, or condition that allows all or part of the electrical energy supplied by the Department to the customer's premises to bypass or avoid Department metering equipment without Department authorization.
- 4.7 Temporary Meter Bypass. A meter bypass that can be readily and entirely removed by the Department and whose removal will not result in a prolonged disconnection of all or part of the customer's load.
- 4.8 Aggravated Meter Bypass. A meter bypass that consists of some form of permanently installed wiring, device, or equipment which the customer is responsible to remove and correct.
- 4.9 Meter Tampering. Interfering with the operation of the metering equipment itself in a manner that results or can result in inaccurate registration of the full amount of electrical energy supplied by the Department to the customer's premises.
- 4.10 Meter Irregularity. Any condition of the meter and related equipment or of their sealing provisions that appears to be irregular or inconsistent with Department standards.

## 5.0 Policy

- 5.1 The City Light Department shall actively discourage the theft or unauthorized or illegal diversion of electrical energy from the City Light distribution system.

- 5.2 All customers shall receive uniform consideration and courtesy in all matters involving actual or suspected current diversion.
- 5.3 Department personnel shall provide support and technical assistance to law enforcement authorities during the course of police investigations by:
- conducting an electrical safety check inspection;
  - correcting unsafe conditions when possible and/or by de-energizing the service, and/or;
  - assisting in collection of evidence of current diversion under the authority of a court-ordered search warrant.
- 5.4 When there is sufficient evidence to support a charge under City or State criminal laws against a customer who has diverted current from the Department's distribution system or has damaged the Department's distribution, metering, or related equipment in order to divert current, the Department shall refer the case to the appropriate law enforcement authorities and shall assist them in prosecuting the customer for violations of the City and State criminal laws. The Department shall request the appropriate law enforcement authorities to pursue any necessary civil action to recover all costs or losses incurred by the Department as a result of the customer's current diversion or meter tampering, either concurrently with any criminal prosecution or separately.
- 5.5 If in the professional judgment of a trained Department employee a criminal investigation may be warranted, the employee(s) who discover evidence of suspected current diversion should not remove or alter potential evidence without authorization of the law enforcement authority(ies) having jurisdiction and until the Current Diversion Coordinator or his or her designee has obtained all evidence needed from the site, except when delaying removing or altering the evidence would create or prolong a direct danger to life or other property or when such delay is otherwise impractical or impossible.
- 5.6 When an electric service has been disconnected for any reason and the Department, upon being called to reconnect the service, discovers evidence that indicates that the premises may have received unmetered or inaccurately metered electricity during the period of disconnection, the Department shall not reconnect the service until photographic and other evidence of the suspected current diversion has been obtained.
- 5.7 When a customer fails or refuses to correct a current diversion condition which the customer is responsible to correct within the time specified by the Department, the Department shall disconnect the customer's electrical services from the Department's distribution system pursuant to SMC 21.49.110(M).
- 5.8 When a trained Department employee determines that any customer-owned wiring or electrical equipment is defective or dangerous, the Department shall disconnect the customer's electrical services from the Department's distribution system and refuse to reconnect its electrical equipment until the defective or dangerous wiring or electrical equipment is properly repaired or restored in accordance with SMC 21.49.110(M). The determination that wiring or electrical equipment is defective or dangerous shall be at the discretion of the trained Department employee.

- 5.9 Electric services disconnected for failure to correct a current diversion condition shall not be reconnected until the condition has been corrected to the Department's satisfaction. At the Department's sole discretion and in addition to and separate from any charges, fees, or costs assessed to the customer for current diversion damages, investigation, or correction, the customer may be charged a reconnection fee after the required repairs have been made.
- 5.10 If a customer's electric service has been disconnected for failure of that customer to correct a current diversion condition and the service is reconnected without the Department's authorization, the Department shall have the authority to disconnect the service from the distribution system without further notice to the customer pursuant to SMC 21.49.110(M).
- 5.11 Customers whose premises receive diverted current shall be billed for the full amount of electrical energy determined by the Department to have been diverted around the meter or to have gone unmetered during the period the customer was in control of the premises. Per SMC 21.49.130(E) and SMC 21.49.130(F), customers may also be billed special service charges and interest charges and recovery of service disconnection charges for all investigative, repair, correction, disconnection, and reconnection work related to the diversion of electricity. See also Section 7.4.2 herein. Nothing herein shall preclude the Department from commencing legal action for three (3) times the amount of actual damages, plus the cost of the suit and reasonable attorney's fees, plus the costs incurred by the Department on account of meter bypassing, tampering, or unauthorized reconnections, as provided in SMC 21.49.120(G) and RCW 80.28.240.
- 5.12 The customer that is in control of the premises where current diversion is discovered shall be presumed to be responsible for the current diversion and shall be liable for all costs incurred by the Department in investigating and correcting the current diversion, and for any damages incurred by the Department related to the current diversion. The customer may rebut this presumption with evidence which demonstrates to the Department's satisfaction that the customer did not cause the current diversion. Rebuttal of this presumption alone shall not excuse the customer from responsibility to pay for diverted energy. City Light shall fully evaluate such evidence and, in its sole judgment, shall make a determination whether or not the evidence substantiates the customer's rebuttal.

## **6.0 Responsibilities**

- 6.1 The Current Diversion Coordinator or Designee shall:
- 6.1.1 Coordinate current diversion prevention, detection, reporting, investigation, and correction activities for the Department.
  - 6.1.2 Maintain records on all cases of suspected and actual current diversion.
  - 6.1.3 Determine, with assistance from affected divisions, the amount to be billed and the customer to be billed for diverted current, for Department equipment damaged in the

process of diverting current, and for investigating and correcting current diversion conditions.

- 6.1.4 Determine in consultation with the Seattle City Attorney's Office if and when to pursue criminal and/or civil legal action against a customer or other individual suspected of diverting current.
  - 6.1.5 Conduct follow-up investigations of all completed current diversion cases, with assistance from and in cooperation with appropriate law enforcement jurisdictions, which may include the Seattle Police Department, King County Sheriff, Port of Seattle Police, and other city, county and State agencies, and Federal Agencies such as the FBI, Drug Enforcement, and Homeland Security.
  - 6.1.6 Review the current Department Policy and Procedure (DPP) by May of each year, and make recommendations for changes to this DPP to the Customer Care Division Director or his or her designee, as appropriate.
  - 6.1.7 Assist the Department's billing and communications departments with public information regarding the current diversion program.
- 6.2 Customer Care Division's Technical Metering Unit, including but not limited to Technical Metering Crew Coordinators, shall:
- 6.2.1 Provide technical assistance in current diversion investigations.
  - 6.2.2 Test suspected tampered meters, devices, or equipment to determine the degree to which the tampering has affected meter registration.
  - 6.2.3 Maintain meter records showing when and by whom a meter and related equipment were sealed.
  - 6.2.4 Maintain proper storage of tampered meters so that they may be used as evidence in civil or criminal proceedings against customers or other individuals suspected of diverting current.
  - 6.2.5 Provide assistance in formulating and executing training programs on current diversion for Department employees.
  - 6.2.6 Report all suspected cases of current diversion to the Current Diversion Coordinator. In the event the Current Diversion Coordinator is unavailable, make reports to a Technical Metering Crew Coordinator who shall be the first backup contact. If both the Current Diversion Coordinator and Technical Metering Crew Coordinator are unavailable, report to the System Control Center Dispatcher who shall be the second backup contact.

6.2.7 Technical Metering Crew Coordinators shall as soon as possible notify the Current Diversion Coordinator or his or her backup contact per Section 6.2.6 of all suspected or actual occurrences of current diversion.

6.3 Energy Delivery Operations Division shall:

6.3.1 Provide technical assistance to Customer Care Division's Technical Metering Unit in the collection of evidence in connection with actual and suspected current diversions.

6.3.2 Respond to requests for assistance investigating suspected Current Diversion cases after hours, documenting evidence, taking photographs if practical, leaving evidence intact, and completing Current Diversion Initial Report form as soon as possible.

6.3.3 Report all suspected cases of current diversion to the Current Diversion Coordinator as soon as practical.

6.4 All City Light Department employees shall:

6.4.1 Report suspected cases of current diversion as soon after discovery as possible to the Current Diversion Coordinator or backup contacts per Section 6.2.6, using (if possible) Initial Report Form.

6.4.2 Provide necessary assistance to other Department employees investigating cases of current diversion.

## 7.0 Procedure

7.1 Technical Assistance and Support to Law Enforcement Agencies. The Current Diversion Coordinator shall maintain a protocol for current diversion response that provides guidance for coordination between law enforcement agencies and the Department for making premises safe and investigating current diversion cases. When law enforcement agencies contact the Department to request technical assistance, the procedures of this protocol should be followed.

7.2 Detection and Reporting of Suspected Current Diversion. Instances of suspected current diversion are reported to the Current Diversion Coordinator or the backup contact per Section 6.2.6 as soon as practical after discovery.

7.2.1 Employees who discover evidence of suspected current diversion should not remove or alter potential evidence without authorization of the law enforcement authority(ies) having jurisdiction and/or until the Current Diversion Coordinator or his or her designee has obtained all evidence needed from the site, except when not delaying removing or altering the evidence would create or prolong a direct danger to life or other property or when such delay is otherwise impractical or impossible.

7.3 Current Diversion Investigation. With the assistance, if necessary, of other Department personnel, the Current Diversion Coordinator or a designated current diversion investigator

investigates suspected current diversion as soon as it is practical to do so after receiving a report of suspected current diversion.

#### 7.4 Correction of Current Diversion Conditions.

7.4.1 Tampered Meters and Temporary Meter Bypasses. After evidence has been obtained and temporary meter bypasses, if any, have been removed, a new meter is set (if necessary) and is secured with a locking device (if necessary). The meter and related equipment are sealed. SMC 21.49.110(P), Meter Tampering Protection, provides that “[w]hen current has been diverted around the Department’s metering equipment or when the Department’s metering equipment has been tampered with to adversely affect metering registration, the Department may require the customer or property owner at his or her expense to repair, relocate, or replace his or her service entrance equipment in a manner determined by the Department to prevent future incidents of current diversion.”

7.4.2 Aggravated meter bypasses that present a direct danger to life or property and that require immediate attention are corrected or rendered harmless by following DPP 500 P III-413, Resolving Customer Electrical Service Problems. SMC 21.49.110(M), Maintenance of Safe Wiring, provides the Department with the authority “at any time to disconnect its electrical system from any wiring or electrical equipment which is defective or dangerous and refuse to reconnect its electrical equipment until the defective or dangerous wiring or electrical equipment is properly repaired or restored.”

7.4.3 If the aggravated meter bypass does not present a direct danger to life or property, the Current Diversion Coordinator or the designated current diversion investigator sets a deadline for correction of the current diversion condition and notifies the customer in writing and, if necessary, in person or by telephone that failure to correct the condition within the time specified by the Department shall result in disconnection of the customer’s service from the Department’s distribution system.

#### 7.5 Billing and Collection of Charges.

7.5.1 Energy and Demand Charges. The Current Diversion Coordinator or a designated current diversion investigator determines how many kilowatt hours or kilowatts of demand have been diverted and who shall be billed for them.

7.5.2 Charges for Investigation, Correction, and Damages. After a current diversion condition has been corrected, each work unit involved in investigating or correcting the current diversion forwards its Investigation/Correction Cost Form to the Current Diversion Coordinator, who determines the total amount to be billed for investigation and correction costs. SMC 21.49.130(E) allows the Department to bill a customer for “field calls, lab tests and office work involved in detecting, reporting, record keeping, storage costs, investigating and correcting cases of current diversion.” The Department shall bill customers for damages caused by current diversion and to recover costs the Department has incurred related to investigating and correcting a current diversion condition as permitted by applicable law. The Department may bill a customer a flat fee of \$500 to



offset the labor, equipment, and materials costs related to investigation and correction, or a fee that is equal to the itemized costs when they exceed \$500.

SMC 21.49.130(F) specifies that if service is disconnected for any violation of SMC Chapter 21.49, a service disconnection charge shall be added to the customer account. SMC 21.49.130(E) also allows the Department to bill customers for “service disconnections or reconnections resulting from City ordinance violations.”

7.5.3 Customer Notification. After the total costs, charges, and/or fees to be billed to the customer have been determined, the Current Diversion Coordinator or a current diversion investigator informs the customer of the reasons for the billing and the amount of the bill by letter to the customer’s address of record and, if necessary, in person or by telephone.

7.5.4 Collection. Collection of current diversion charges follows standard Department policies and procedures.

7.6 Legal Action. Legal action is sought when there is sufficient evidence to support a charge under City ordinance or State law against a customer or individual who has diverted current from the Department’s distribution system, and/or has damaged Department equipment in order to divert current, and/or has intimidated a Department employee as defined by RCW 9A.76.180, and/or when civil action is necessary to recover cost or losses incurred by the Department as a result of the customer’s current diversion or meter tampering under SMC 21.49.130 or RCW 80.28.240.

7.6.1 Civil Fine. Current Diversion is subject to a civil fine of up to \$500 per violation pursuant to SMC 21.49.140, Offenses and penalties. In addition to this civil fine and applicable charges for investigation, correction, and damages, the Department may request the City Attorney’s Office to pursue any and all fines and penalties available for violations of local or state law in connection with suspected current diversion.

7.7 Follow-up.

7.7.1 After the current diversion has been corrected and the customer has been billed, each case is monitored for a period of time and at a frequency determined by the Current Diversion Coordinator on a case-by-case basis.

7.7.2 When evidence of current diversion is discovered during the monitoring period, the procedures in Section 7.0 of this DPP shall be followed.

## 8.0 Appendix

Distribution: Posted online at <http://sclweb.light.ci.seattle.wa.us/dpp/>

**9.0 Revision History**

<b>Version</b>	<b>Date</b>	<b>Changes Made</b>	<b>Author/Key Contact</b>
1.0	11-17-11	Updated to reflect current practices and to add provisions for the protocol and recovery of SCL costs.  Update Coordinated By: Jackie Kim	Nettie Dokes