

**DECISION MEMORANDUM**

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
LEGAL  
WORKING FILE**

*RUL-0-07-02*

**FROM: BEVERLY BARKER  
DON HOWELL**

**DATE: AUGUST 9, 2007**

**RE: REVISION OF THE COMMISSION'S UTILITY CUSTOMER  
RELATIONS RULES, DOCKET NO. 31-2101-0701**

Staff recommends that the Commission amend its Utility Customer Relations Rules (UCRR). A brief description of the reason for the changes and a legislative version of the proposed revisions is attached to this memorandum.

Staff held utility workshops on June 5 and July 10, 2007, to address several topics, including possible changes to the UCRR. In addition to Staff, representatives of Avista, Idaho Power, Intermountain Gas, Rocky Mountain Power, and United Water were in attendance at both workshops. The general concepts behind possible revisions were discussed as well as whether there was an immediate need to make changes. After considering comments made at the workshops, Staff made a final determination regarding what changes needed to be made at this time. Staff is proposing revision of Rules 105, 203, 204, 300, 302, 310, 311, 403, and 600. Although Staff believes there is general support for many of the proposed changes, some disagreement remains.

**RULEMAKING SCHEDULE**

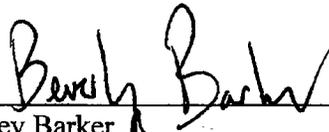
If the Commission wishes to initiate a rulemaking, the proposed revisions must be submitted to the Administrative Rules Coordinator by August 24, 2007, for publication in the October 3, 2007, Administrative Bulletin. After publication, public comments will be accepted until October 24, 2007, after which the Commission will have the opportunity to make a final decision regarding these rules. The final date for submitting pending rules in order to complete

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the rulemaking process in time for consideration during the 2008 legislative session is November 14, 2007.

**COMMISSION DECISION**

Does the Commission wish to change its Utility Customer Relations Rules as proposed by Staff?

  
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Bev Barker  
Don Howell

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**PROPOSED RULE REVISIONS  
2007**

**RULE 105**

Clarify that Subsections 105.01 and 105.02 apply to both customers and applicants.

Provide for option of paying deposit in two installments for both customers and applicants.

Clarify that the utility has the duty to advise customers and applicants of the option to pay a deposit in installments.

**105. AMOUNT OF DEPOSIT (RULE 105).**

**01. Amount of Deposit.** A deposit allowed pursuant to Rule 101 as a condition of service shall not exceed one-sixth (1/6) the amount of reasonably estimated billing for one year at rates then in effect. ~~For customers who use~~ Where gas service is used for space heating purposes only, the deposit shall not exceed the total of the two (2) highest months' bills during the previous twelve (12) consecutive months, adjusted for currently effective rates. Deposit amounts shall be based upon the use of service at the premises during the prior year or upon the type and size of ~~customer's~~ equipment using the utility's service. (5-3-03)( )

**02. Installment Payments of Deposit.** The utility shall ~~provide~~ advise the applicant ~~an opportunity to pay~~ or customer that the deposit may be paid in two (2) installments. ~~The applicant or customer shall be allowed to pay~~ One-half (1/2) of the deposit amount at the time of application, shall be due immediately with the remaining installment payable in one (1) month. (7-1-93)( )

**RULE 203**

Complaints under this rule are rare. Idaho Power suggested a minor change to this schedule to allow refunds to be credited to future bills.

In the case of underbilling, rebill customer for past usage under the appropriate tariff schedule for up to six months but extend if reasonable person should have known. In the case of overbilling, issue a refund for up to three years.

**203. BILLING UNDER INAPPROPRIATE TARIFF SCHEDULE (RULE 203).**

**01. Rebilling Required.** If a customer was billed under an inappropriate tariff schedule, the utility shall recalculate the customer's past billings and correctly calculate future billings based on the appropriate tariff schedule. A customer has been billed under an inappropriate tariff schedule if: (7-1-93)

**a.** The customer was billed under a tariff schedule for which the customer was not eligible; or (7-1-93)

**b.** The customer was billed under a tariff schedule based upon information supplied by the customer but the customer's actual demand is insufficient to meet the minimum eligibility requirements for the selected tariff schedule; or ( )

**c.** The customer, who is eligible for billing under more than one (1) tariff schedule, was billed under a schedule contrary to the customer's election, or the election was based on erroneous information provided by the utility. (7-1-93)

**02. Exceptions.** The utility shall not be required to adjust billings when it has acted in good faith based upon available information or when the customer was given written notice of options under the tariff schedules and did not make a timely election to exercise available options. (7-1-93)

**03. Rebilling Time Period.** When the customer has been overcharged the period for which rebilling under this rule is allowed shall be that not exceed three (3) years as provided by Section 61-642, Idaho Code, (three (3) years). When the customer has been undercharged, the period for rebilling shall be limited to six (6) months unless a reasonable person should have known of the inappropriate billing, in which case the rebilling period may be extended. Utilities shall implement procedures designed to monitor and identify customers who may be billed under an inappropriate tariff schedule. (7-1-93)( )

**04. Refunds and Additional Payments.** The utility shall promptly prepare a corrected billing indicating the refund due the customer or the amount due the utility. (7-1-93)( )

**a.** A customer who has been underbilled~~charged~~ shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling~~charge~~ accrued. ( )

**b.** The utility shall promptly calculate refund amounts overpaid by the customer and issue a credit on the customer's next bill. ~~Any remaining credit balance may be unless the customer consents to a credited~~ against future bills, ~~except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills~~ unless the customer after notice from the utility requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. ( )

#### **RULE 204**

Complaints under this rule are more common, and are typically caused by errors in bill preparation, metering equipment failures, and cross metering in multi-tenant buildings. Equipment failures are the most problematic, since actual usage is unknown and therefore must be estimated.

In the case of underbilling, rebill customer for past usage under the appropriate tariff schedule for up to six months but extend if reasonable person should have known. In the case of overbilling, issue a refund for up to three years.

#### **204. INACCURATELY BILLED SERVICE UNDER CORRECT TARIFF SCHEDULE -- FAILURE TO BILL FOR SERVICE (RULE 204).**

**01. Errors in Preparation -- Malfunctions -- Failure to Bill.** Whenever the billing for utility service was not accurately determined because for reasons such as a meter malfunctioned or failed, bills were estimated, metering equipment was incorrectly programmed or bills were inaccurately prepared, the utility shall prepare a corrected billing. If the utility has failed to bill a customer for service, the utility shall prepare a bill for the period during which no bill was provided. (7-1-93)( )

**02. Rebilling Time Period Corrections.** (7-1-93)( )

**a.** If the time when the malfunction or error began or the time when the utility began to fail to bill for service cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction, ~~or~~ error, or failure to bill. ( )

**b.** If the time when the malfunction or error or failure to bill began can be reasonably determined and the utility determines the customer was overcharged, the corrected billings shall

go back to that time, but not to exceed three (3) years from the time the error or malfunction occurred as provided by Section 61-642, Idaho Code, (three (3) years). ( )

c. If the time when the malfunction or error can be reasonably determined and the utility determines the customer was undercharged, the utility may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended. Utilities shall implement procedures designed to monitor and identify customers who have not been billed or been inaccurately billed. ( )

**03. Refunds and Additional Payments.** The utility shall promptly prepare a corrected billing indicating the refund due to the customer ~~or the amount due the utility.~~ The utility shall promptly refund amounts overpaid by the customer and issue a credit on the customers next bill. Any remaining credit balance shall be unless the customer consents to a credited against future bills, except overbillings not exceeding fifteen dollars (\$15) may be credited to future bills unless the customer after notice from the utility requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (7-1-93)( )

**04. Additional Payments.** The utility shall promptly prepare a corrected billing for Aa customer who has been underbilled charged or who has not been billed indicating the amount owed to the utility. An unbilled or underbilled customer shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. ( )

### RULE 300

Revise definitions in Rule 300 in manner similar to Rule 200 to allow notices to be sent electronically if the customer has opted for electronic billing and consents to electronic notification.

#### 300. FURTHER DEFINITIONS (RULE 300).

As used in Rules 301 through 313: (7-1-93)

**01. Applicant.** "Applicant" is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule.

(7-1-93)

**02. Customer.** "Customer" is restricted from its general definition to refer only to residential or small commercial customers, unless further restricted by the rule. (7-1-93)

**03. Non-Utility Service.** "Non-utility service" means: (7-1-93)

a. Service for which the Commission does not regulate rates, charges, or availability of service; (7-1-93)

b. Service for which no rate or charge is contained in the utility's tariffs; or (7-1-93)

c. Merchandise or equipment or charges for merchandise or equipment not required as a condition of receiving utility service. (7-1-93)

**04. Written Notice.** "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, resident, occupant or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and consents to electronic notification. ( )

## RULE 302

Revise Subsection 302.08 to provide exception for bills four or more years old.

### **302. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 302).**

A utility may deny or terminate service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

**01. Failure to Pay.** With respect to undisputed past due bills the customer or applicant: (3-20-04)

a. Failed to pay; (3-20-04)

b. Paid with a dishonored check; or (3-20-04)

c. Made an electronic payment drawn on an account with insufficient funds. (3-20-04)

**02. Failure to Make Security Deposit.** The customer or applicant failed to make a security deposit or make an installment payment on a deposit where it is required. (3-30-01)

**03. Failure to Abide by Terms of Payment Arrangement.** The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

**04. Identity Misrepresentation.** The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining utility service. (7-1-93)

**05. Denial of Access to Meter.** The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

**06. Willful Waste of Service.** The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

**07. Service to Minors.** The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (3-20-04)

**08. Previous Account Balance Owning.** Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account if the unpaid bill is for service provided within the past four (4) years.

(3-20-04)( )

### RULE 310

Extend all but one of the current restrictions on termination of service to denial of service.

Add an additional restriction prohibiting denial or termination of service for bills four or more years old.

### 310. INSUFFICIENT GROUNDS FOR TERMINATION OR DENIAL OF SERVICE (RULE 310).

**01. Termination of Service.** No customer shall be given notice of termination of service nor shall the customer's service be terminated if: (7-1-93)( )

**01a. Unpaid Bill Less Than Fifty Dollars.** ~~The customer's unpaid bill cited as grounds for termination totals less than fifty dollars (\$50) or two (2) months' charges for service, whichever is less.~~ (7-1-93)( )

**02b. Unpaid Bill Not Customer's.** ~~The unpaid bill cited as grounds for termination is for utility service to any other customer (unless that customer has a legal obligation to pay the other customer's bill) or for any other class of service.~~ (7-1-93)( )

**03c. Non-Utility Service or Goods.** ~~An~~ The unpaid bill results from the purchase of non-utility goods or services. (7-1-93)( )

**d.** The unpaid bill is for service provided four (4) or more years ago unless the customer has promised in writing to pay or made a payment on the bill within the last four (4) years. ( )

02. Denial of Service. No applicant shall be given notice of denial nor shall the applicant be denied service if any of the criteria listed in Subsection 310.01.b. through 310.01.d. apply. ( )

### Rule 311

Clarify that restrictions apply to denial of service to applicants, termination of service to customers, or termination of service to residents and occupants who are not customers or applicants but have service provided by another party, e.g., assisted living facilities, master-metered buildings or mobile home parks.

Revise Subsection 311.01 to prohibit denial or disconnection all day on Friday. Currently, denial or disconnection is allowed until noon on Fridays.

In addition to the existing exceptions provided under Rule 303, explicit exceptions are made for customer-requested disconnections and abandoned service to vacant premises.

Revise Subsection 311.01 to extend the time frame during which denial or disconnection can take place until 5 p.m. Currently approved time frame is 8 a.m. to 4 p.m.

Revise Subsection 311.01 to allow denial or disconnection from 5 to 9 p.m., Monday through Thursday if service is being used without authorization or knowledge of the utility.

### **311. RESTRICTIONS ON TERMINATION OF SERVICE TIMES WHEN SERVICE MAY BE DENIED OR TERMINATED -- OPPORTUNITY TO AVOID TERMINATION OF SERVICE (RULE 311).**

**01. When Denial or Termination Not Allowed of Service Is Prohibited.** Service provided to a customer, applicant, resident or occupant shall not be denied or terminated: ( )

**a.** ~~On any Friday after 12 noon, or on Saturday, Sunday, legal holidays recognized by the State of Idaho, or on any day immediately preceding any legal holiday;~~ ( )

**b.** ~~At any time when the utility is not open for business, except as authorized by Rules 303.01 and 303.02;~~ ( )

**c.** ~~For failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission; or~~ ( )

**d.** ~~While a case placing at issue payment for utility service is pending before a court in the state of Idaho unless authorized by court order.~~ ( )

**02. Times When Service May Be Denied or Terminated.** Service may be denied or terminated: ( )

- a. At any time when: ( )
- i. There is a dangerous condition pursuant to Rule 303.01; ( )
- ii. The utility is ordered to do so pursuant to Rule 303.02; ( )
- iii. Done pursuant to the customer's request for termination; or ( )
- iv. The premises are unoccupied and service has been abandoned. ( )
- b. Between the hours of 8 a.m. and 5 p.m., Monday through Thursday, pursuant to Rules 302, 303.03 and 303.04; ( )

c. ~~Between the hours of 4~~ 5 p.m. and 9 p.m., Monday through Thursday, if the utility is unable to gain access to the customer's meter during normal business hours or if service is obtained, diverted, or used without authorization or knowledge of the utility. ~~Unless otherwise authorized by this rule, Rules 303.01 and 303.02, or the affected customer in writing, service may be terminated only between the hours of 8:00 a.m. and 4:00 p.m.~~ (4-11-06)( )

**023. Personnel to Authorize Reconnection.** Each utility shall have personnel available ~~after the time of termination~~ who are authorized to reconnect service if the conditions cited as grounds for denial or 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 requested.~~ (5-3-03)( )

**034. Opportunity to Prevent Denial or Termination of Service.** Immediately preceding denial or termination of service, the employee designated to deny or terminate service shall identify himself or herself to the customer or other responsible adult upon the premises and shall announce the purpose of the employee's presence. This employee shall have in his or her possession the past due account record of the customer and shall request any available verification that the outstanding bills are satisfied or currently in dispute before this Commission. Upon presentation of evidence that outstanding bills are satisfied or currently in dispute before this Commission, service shall not be denied or terminated. The employee shall be authorized to accept full payment, or, at the discretion of the utility, partial payment, and in such case shall not deny or terminate service. Nothing in this rule prevents a utility from proceeding with denial or termination of service if the customer or other responsible adult is not on the premises ~~at the time of termination.~~ (5-3-03)( )

**045. Notice of Procedure for Reconnecting Service.** The utility employee ~~of the utility~~ designated to deny or terminate service shall give to the customer or leave in a conspicuous

location at the affected service address, ~~affected~~ a notice showing, the time of and grounds for denial or termination, steps to be taken to secure reconnection, and the telephone numbers of utility personnel or other authorized representatives who are available to authorize reconnection.

(5-3-03)( )

~~**05. No Termination While Complaint Pending.** Except as authorized by order of the Commission or of the Judiciary, service shall not be terminated for failure to pay amounts in dispute while a complaint filed pursuant to Rule 402 is pending before this Commission or while a case placing at issue payment for utility service is pending before a court in the state of Idaho.~~

(7-1-93)

**06. Applicant Without Service.** Nothing in this rule prohibits a utility from denying service to an applicant who is not connected at the time of the application for service. ( )

#### RULE 403

Correct reference in Rule 403.01 to Rule 401.02 instead of Rule 401.03.

#### **403. RECORD OF COMPLAINTS (RULE 403).**

**01. Recordkeeping.** Each utility must keep a written record of complaints and requests for conferences pursuant to Rules 401 and 402. These records must be retained for a minimum of one (1) year at the office of the utility where the complaints were received or conferences held. These written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the Commission. The records must show whether the customer or applicant was advised as required by Rule 401.03~~2~~ that the customer or applicant may request the Commission to review the utility's proposed disposition of the complaint.

(7-1-93)( )

**02. Reporting.** Each utility must, at the Commission's request, submit a report to the Commission that states and classifies the number of complaints made to the utility pursuant to Rules 401 and 402, the general nature of their subject matter, how received (in person, by letter, etc.), and whether a Commission review was conducted.

(7-1-93)

## RULE 600

Revise definitions in Rule 600 in manner similar to Rule 200 to allow notices to be sent electronically if the customer has opted for electronic billing and consents to electronic notification.

### 600. DEFINITIONS (RULE 600).

As used in Rules 601 through 605. (7-1-93)

**01. Advance Payment.** "Advance payment" means a payment made prior to receiving service that will be credited to the customer's account at a later date. (7-1-93)

**02. Applicant.** "Applicant" means an applicant for industrial, large commercial or irrigation service. (7-1-93)

**03. Customer.** "Customer" means an industrial, large commercial or irrigation customer, unless further restricted by the rule. The Commission will maintain on file a list of which customer classes of a given utility are industrial, large commercial, and irrigation. (7-1-93)

**04. Deposit.** "Deposit" means any payment held as security for future payment or performance that is reimbursable. (7-1-93)

**05. Written Notice.** "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, occupant or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and consents to electronic notification. ( )