

## DECISION MEMORANDUM

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

**FROM:** BEVERLY BARKER AND DANIEL KLEIN

**DATE:** APRIL 30, 2009

**RE:** INTERPRETATION OF RULES 201 AND 202, TELEPHONE  
CUSTOMER RELATIONS RULES (TCRR).

ENR-T-09-03

### BACKGROUND

A Qwest customer has raised several issues that require interpretation of Rules 201 and 202 of the Commission's Telephone Customer Relations Rules (TCRR), IDAPA 31.41.01. Qwest disagrees with Staff's rule interpretation, as described more fully below.

### INTERPRETATION OF RULE 201, TCRR

In the course of investigating an informal complaint filed by a Qwest customer, the Commission Staff identified a Qwest billing practice that does not comply with the Telephone Customer Relations Rules. Rule 201.01(c) requires bills for residential and small business local exchange service to include the due date of the bill. See Attachment A. Qwest's bills include the due date except in instances where a customer has selected the option of automatic monthly payment by credit card, debit card, or electronic funds transfer from a checking account. If a customer selects one of those options, Qwest removes the due date from the bills. See Attachment B. According to the Company, the due date is irrelevant because the payment transaction will be processed automatically by Qwest before the actual due date of the bill with no action required of the customer.

Qwest's position is that Rule 201 does not apply to bills issued to customers who have selected these payment options. See Attachment C. Since, in its opinion, the rule does not apply, Qwest believes it is unnecessary to seek a rule waiver because it is not violating Rule 201.

Qwest points out that any customer who does not find its billing practices to be acceptable may choose a different method of paying his or her bill.

Staff's position is that the rule clearly requires due dates on customer bills; there are no exceptions for certain payment options selected by the customer. Payment of bills by electronic funds transfer, debit card, or credit card is a standard option offered by many companies, both regulated and unregulated. If a customer chooses one of these payment options, the customer's bill typically includes the transaction date for processing the payment and may also include the regular due date of the bill. It could be argued that for those customers who have selected an automatic payment option, the inclusion of transaction dates on bills would provide more relevant information to customers than the due date. However, Qwest's bills do not provide either a transaction date or the due date. Instead, Qwest simply provides a statement indicating the method of payment. Although Rule 201 does not require that bills for local exchange service include transaction dates, Qwest is not precluded from doing so.

Staff believes there are reasonable alternatives to Qwest's current practice that would bring them into compliance with the rule and provide useful information to customers. One alternative would be inclusion of a due date with a message on bills stating when automatic payment would be processed, e.g., within 3-5 days following the bill date.

#### **INTERPRETATION OF RULE 202, TCRR**

Another issue related to billing due dates concerns the timing of transactions. Payment transactions are processed by Qwest anywhere from 3-5 days following the customer's bill date, which is earlier than the customer's normal due date. Affected customers who receive paper bills sent by U.S. mail may receive their bills on or after the date of the payment transaction. For example, in the case of one customer who recently complained, the billing date was November 25, the bill amount was posted to his credit card account on December 2, and he received the paper bill on December 5. The customer objected to the fact that he had no opportunity to review the bill before it was "paid". In this particular instance, there was a billing error that he was unable to address with the Company before the payment transaction occurred. This left him with the choice of either refusing to pay the amount charged to his credit card bill or waiting for his next bill from Qwest to reflect a credit for the disputed amount.

Rule 202 addresses the timing of due dates. It states that “the minimum specified time after the billing date is fifteen (15) days (or twelve (12) days after mailing or delivery, if bills are mailed or delivered more than three (3) days after the billing date).” The rule does not address specifically the timing of transaction dates when the customer has selected an automatic payment option. Although Qwest has not addressed this issue in its letter, Staff assumes the Company’s position is that Rule 202 does not apply in such situations.

## **STAFF’S CONCLUSIONS AND RECOMMENDATIONS**

Staff’s conclusions are summarized below:

- Rule 201 clearly requires that due dates be included on bills. Qwest must obtain an exemption if it intends to continue to remove due dates from bills provided to customers who have selected automatic payment options. Alternatively, Qwest could modify its current practice to comply with the rule.
- Although identification of transaction dates on bills would provide meaningful information to customers and might even be considered a reasonable substitute for due dates, inclusion of transaction dates on bills is not addressed in Rule 201.
- Rule 202 specifies the minimum amount of time that must be allowed for payment of bills. Although Staff does not regard Qwest’s practice of processing automatic payment transactions before customers have the opportunity to receive and review paper bills as being consistent with good customer service, Rule 202 does not address the timing of automatic payment transactions.

Staff recommends that:

- The Commission initiate a case by its own motion pursuant to Rule 009, Request for Exemption, TCR, to address whether Qwest should be granted a limited exemption to Rule 201.01(c) in instances where customers select the options of automatically paying by electronic funds transfer, credit card, or debit card. IDAPA 31.41.01.009. Staff recommends that the case be processed by modified procedure.

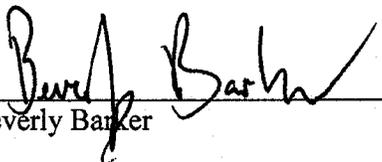
- The issues raised regarding inclusion of transaction dates on bills and the timing of automatic payment transactions be addressed within the context of a rulemaking proceeding. Since the Telephone Customer Relations Rules apply not only to Qwest but to all regulated telephone companies, a rulemaking proceeding would provide all interested parties the opportunity to comment on any proposed changes to the existing rules. Staff is not suggesting that a rulemaking proceeding be initiated just to address Rules 201 and 202. Rather, these rules should be reexamined when the Commission initiates a general review of the TCRR.

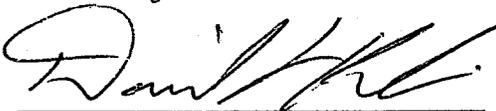
### COMMISSION DECISION

Does the Commission wish to initiate a case by its own motion pursuant to Rule 009, Request for Exemption, TCRR, to address whether Qwest should be granted a limited exemption to Rule 201.01(c) in instances where customers select the options of automatically paying by electronic funds transfer, credit card, or debit card?

Should this case be processed by modified procedure?

Does the Commission agree with Staff's recommendation that the issues raised regarding inclusion of transaction dates on bills and the timing of automatic payment transactions be addressed within the context of a rulemaking proceeding?

  
Beverly Barker

  
Daniel Klein

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**201. ISSUANCE OF BILLS--CONTENTS OF BILLS--RESIDENTIAL AND SMALL BUSINESS SERVICE (Rule 201).**

**01. Local Exchange Service.** Bills for residential and small business local exchange service shall be issued on a regular basis. Bills must contain the following information: (7-1-93)

- a. The billing date; (7-1-93)
- b. The time period covered by the bill; (7-1-93)
- c. The due date of the bill; (7-1-93)
- d. Any amounts transferred from another account; (7-1-93)
- e. Any amounts past due; (7-1-93)
- f. Any payments or credits applied to the customer's account since the last bill; (7-1-93)
- g. The total amount due; (7-1-93)
- h. Names of other telephone companies or entities that are not telephone companies whose services are also being billed, identification of the service(s) billed, and the amount(s) of those billings; (7-1-93)
- i. The mailing address(es) or toll-free telephone number(s) available to customers in the service territory for answering inquiries about telephone services billed; (7-1-93)
- j. An itemization of all non-recurring charges; and (7-1-93)
- k. An itemization of the following recurring charges: total local exchange service bill (mileage or zone charges and charges for extended area service may be included in the total rather than as separate items), touch tone capability, custom calling features, directory listings, wire maintenance plans, equipment leases, and governmentally imposed taxes, surcharges or subscriber line charges. All other recurring charges may be included in a miscellaneous billing category if the local exchange company explains the charges in writing pursuant to IDAPA 31.41.02.101. Charges for each element of packaged services, local measured service, or other calling plans in which individual calls are not billed need not be separately itemized if the local exchange company provides an explanation of those services pursuant to IDAPA 31.41.02.101. (7-1-93)



? Ron - Supervisor ?  
1-800-423-8294

Thank you for being a Qwest customer



Account Number: 208 [REDACTED]  
Bill Date: November 25, 2008  
Customer Service: 1 800-244-1111  
Repair: 1 800-573-1311  
Online: qwest.com

**SPECIAL \$200 QWEST REWARD CARD OFFER!**  
Ask how to get a \$200 Qwest reward card when you add qualifying Qwest High-Speed Internet and DIRECTV® service available through Qwest! For details, availability, restrictions, or to order, call us today at 1 877-645-4481.

INCLUDED IN YOUR STATEMENT



Phone Service

QWEST ALSO OFFERS



Internet Service



Wireless TV Service



TV Service

Call or visit qwest.com to learn more!

06685 1/2

<b>Previous Balance</b> \$29.08 <b>- Payment Oct. 30</b> \$29.08	<b>= Balance</b> \$0.00	<b>+ Total New Charges</b> \$30.40	<b>= Total Amount Due</b> \$30.40 <b>Total Amount Charged to Your Credit Card</b> Thank You!
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Please fold, tear here and return the portion below with your payment.

1 2 3



To change your billing address call us at 1 800-244-1111

Account: 208 [REDACTED]  
Total Amount Due: \$30.40  
Amount Due is charged to your Credit Card.

AV 01 009053 70160H 33 A\*\*5DGT  
[Barcode]

See reverse of this page to enroll in paperless billing or a summary billing statement!



[REDACTED]  
CALDWELL ID 83607-7762

Qwest  
PO Box 173384  
Denver, CO 80217-3384

[Barcode]

[REDACTED]

ATTACHMENT B  
DECISION MEMORANDUM  
4/30/09

RECEIVED  
2008 DEC 30 AM 8:16  
IDaho PUBLIC UTILITIES COMMISSION

**Jim Schmit**  
Idaho President

999 Main Street, 11th Floor  
Boise, Idaho 83702

April 1, 2009

RECEIVED  
208 385 2628 office  
208 385 8026 office fax  
208 800 4600 wireless

2009 APR -2 PM 2:12

Mack Redford  
President  
Idaho Public Utilities Commission  
472 W. Washington St.  
Boise, ID 83702

IDAHO PUBLIC  
UTILITIES COMMISSION



Dear Mr. Redford,

A question has been raised about whether or not Qwest's voluntary customer program to allow automatic payment by credit card complies with the Commission rule regarding issuance of bills or, more specifically, whether or not that rule applies when the customer has chosen this option.

The recurring credit card plan is a voluntary program that allows the customer to have their monthly bill payment automatically processed approximately 3-5 days following their bill date each month. If the customer chooses this option, versus a traditional bill, a statement is sent to the customer, which includes the bill date and the amount to be charged to their credit card, with associated detail.

There is no "due date" on this statement, since there is nothing for the customer to do. The purpose of a due date is to give customers time to make arrangements to pay the bill. In this situation, the customer has made arrangements, in advance, for automatic bill payments. The rule in question (Rule 201), requiring the bill to include a "due date" does not apply here, since these customers – at their option – have made other arrangements in advance for payment of the bill.

This is an optional bill paying process made available to our customers at their request and for their convenience. Should the customer not want this option, a "traditional" paper bill, sent in the mail, with payment by a specified due date is always available. Customers can pay that bill by check or by using a credit card.

There are over 9000 customers in Idaho currently selecting this option that we have been providing for over a decade. Qwest is not offering this service to circumvent Commission rules. Rather, Qwest is providing this option for our customers to allow them choices to best fit their individual circumstances.

The Commission has long been an advocate for providing customers choice and options, which we are doing in this case. Again, it is our position that Rule 201 does not apply in this situation. Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Jim Schmit".

Jim Schmit  
Qwest Idaho President

cc: Commissioner Kempton, Commissioner Smith, Beverly Barker, Weldon Stutzman,  
Mary Hobson

ATTACHMENT C  
DECISION MEMORANDUM  
4/30/09