

WELDON B. STUTZMAN
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0318
IDAHO BAR NO. 3283

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IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5918

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE AMENDMENTS TO)
THE COMMISSION'S TELEPHONE)
CUSTOMER RELATIONS RULES, IDAPA)
31.41.01.000 *et seq.*)

RUL-T-09-01

CASE NO. 31-0901-4101

COMMENTS OF THE
COMMISSION STAFF

The Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Weldon B. Stutzman, Deputy Attorney General, submits the following comments in support of the rule changes proposed in the Commission's Notice of Rulemaking issued in the Administrative Bulletin on October 3, 2009.

BACKGROUND

Enactment of federal statutes (Telecommunications Act of 1996) and state statutes (amendments to the Telecommunications Act of 1988) since the IPUC last revised its Telephone Customer Relations Rules, IDAPA 31.41.01.000 *et seq.*, have significantly changed the regulatory objectives for telecommunications companies. The law changes are intended to encourage competition in telephone services, and the proposed rule changes are consistent with that objective by simplifying regulatory requirements and allowing companies more flexibility to

respond to customers' service requests, while maintaining some service quality standards related to basic local exchange service.

Staff held a public workshop on July 28, 2009, to address possible changes to the Telephone Customer Relations Rules (TCRR). In addition to Staff, representatives of AT&T, Embark, Frontier, Qwest, TDS Telecom, and Verizon were in attendance at the workshop. Participants discussed the general concepts behind possible revisions to the TCRR. After considering comments made at the workshop, Staff drafted amendments for the Commission's review. The Commission subsequently proposed to amend its Telephone Customer Relations Rules 000-003, 005, 009-012, 100-111, 200-207, 300-314, 400-404, 500-503, 600-608 and 700-704.

Many substantive changes have been proposed and are discussed in greater detail below. Non-substantive changes to the rules include renumbering, addition of titles to describe rule content, and general formatting changes to comply with the Department of Administration's rulemaking requirements that improve legibility. Staff's comments refer to the proposed rules as renumbered and re-titled. Where necessary, Staff refers to an existing rule as currently written as an "existing rule".

The Commission has proposed to eliminate its Telephone Customer Information Rules, IDAPA 31.41.02.000 et seq., and its Title 62 Telephone Corporation Rules, IDAPA 31.41.01.00 et seq. The cases involving those rule sets are RUL-T-09-02 and RUL-T-09-03, respectively. Where necessary, the text of rules from both rule sets have been incorporated into the revised TCRR.

The proposed rule changes clarify, simplify, and modernize the TCRR in recognition of changes over time within the telecommunications industry and to Federal and state statutes. Detailed descriptions of procedures are replaced by references to the Commission's Rules of Procedure. The definition of "Applicant" and "Customer" are combined so that separately referring to "applicant" throughout the TCRR is no longer necessary. The rules are modernized by removing references to obsolete services, antiquated terms or services that are no longer regulated.

STAFF ANALYSIS AND COMMENT

Staff supports the Commission's proposed changes to its Telephone Customer Relations Rules for the reasons more fully articulated below. Only rules with significant substantive changes are addressed. The Notice containing the proposed changes is attached.

Rule 001 - Title and Scope

Rule 001 is revised to reflect the change in title of this rule set. It also removes the term "MTS/WATS" and substitutes more general terms to describe services under the Commission's authority. A statutory reference to Title 62 is included because the Commission is incorporating its separate Title 62 rules into the TCRR.

Rule 002 - Written Interpretations – Agency Guidelines

The proposed revision of Rule 002 removes a duplicative reference to Staff interpretations, which is covered by Rule 009.

Rule 003 - Administrative Appeals

The proposed revision of Rule 003 simplifies and clarifies how formal complaints and requests for exemption will be handled. The reference to the Commission's Rules of Procedure eliminates the need for a detailed description of the filing process in this rule. The revision incorporates the text of existing Rule 009. Informal review of complaints by the Commission is covered under revised Rule 401 and the Rules of Procedure and is removed from this rule.

Rule 005 - Definitions

The proposed revision of Rule 005 combines the definition of "Applicant" and "Customer", giving both the same rights and responsibilities in order to simplify this rule and other rules throughout this rule set. The text regarding minors was removed from Rule 005 and is now addressed in Rule 301.05. The reference to "good credit" and specific credit requirements are removed from this rule and addressed in Rule 105. Subsections .02 and .03 were revised to simplify those definitions. Subsection .07 of existing Rule 005 is eliminated because operator and directory assistance services are now covered under Subsection .04, which addresses "other services." Subsection .05 of existing Rule 005 is eliminated and is now covered under the more general definition of "telephone companies" under Subsection .07.

Rule 009 - Informal Complaints and Interpretations of Rules

The text of existing Rule 009, which addresses rule exemptions, was moved to Rule 003, which covers Administrative Appeals. As proposed, Rule 009 now addresses informal

complaints and rule interpretations and is revised to remove an obsolete reference to informal written staff interpretations.

Rule 011 - Incorporation by Reference – Code of Federal Regulations

The proposed revision of Rule 011 removes the reference to the mailing and web address for the Code of Federal Regulations. It also removes an obsolete reference to the Idaho State Law Library.

Rule 100 - Deposit Requirements -- LECS

The text of existing Rule 100 was eliminated. All definitions are now found in Rule 005. Existing Rule 101 was renumbered as Rule 100 and has been revised. As proposed, Subsection .01.a is revised to remove the time limitation for collecting deposits on undisputed outstanding balances. Under the current competitive environment, telephone companies are more likely to pursue another course of action rather than asking for a deposit if unpaid bills are discovered. Subsection .01.b.ii is removed because misrepresentation is covered by Subsection .01.d. Subsection .01.b.iii is obsolete and therefore is eliminated. The changes to Subsection .01.d are made for the sake of clarification.

Rule 102 - Explanation for Denial of Service or Requirement of Deposit -- LECS

Rule 102 is revised to remove the requirement that notices must be written. Both written and oral notices are permitted to provide regulatory flexibility to telephone companies. The revision also clarifies the right of customers to file complaints with the Commission. The proposed changes to Rule 102 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules IDAPA 31.21.01.000.

Rule 103 - Amounts of Deposits -- LECS

The proposed changes to Rule 103 remove any reference to deposits for MTS and only cover amounts for local exchange service. Under the current competitive environment, telephone companies are not likely to require a deposit for MTS service billed on the LEC bill.

Rule 105 - Return of Deposits -- LECS

The proposed changes to Subsection .02 simplify the rule by establishing the same terms for returning a deposit for both residential and small business customers.

Rule 107 - Records of Deposits

Rule 107 is revised to eliminate the requirement that telephone companies provide a separate written deposit receipt to customers. The change gives telephone companies the flexibility to provide deposit information in other ways.

Rule 110 - Deposits – MTS Companies

Existing Rule 110, which allowed MTS companies to collect “reasonable” deposits, was eliminated. Given today’s competitive environment, MTS companies are less likely to collect deposits from customers.

Rule 200 - Further Definition – Billing Statement

Rule 200 was revised to add the reference to “goods” to reflect the general practice of telephone companies billing for both goods and services on customers’ bills. Electronic billing (via email) is growing in popularity, and some customers prefer to conduct as much business as possible electronically. The rule is revised to expand the definition of “billing statement” to allow utilities to provide billing information in an electronic format with the customer’s consent. This change is consistent with its corresponding rule found in the Commissions Utility Customer Relations Rules.

Rule 201 - Issuance of Billing Statements – Contents of Bills – Residential and Small Business Service

In December 2008, it was brought to Commission Staff’s attention that Qwest bills that are paid via automatic transactions do not list a due date or transaction date on bills. The proposed changes to Subsection .01.c addresses customer concerns that current bills do not reflect when automatic payment transactions will be processed. Subsection .01.i was changed to reflect current industry practices favoring the provision of telephone numbers instead of mailing addresses for the purpose of responding to complaints and inquiries. Subsection .01.j combines existing Subsection .01.j and .01.k to reflect current industry marketing and billing practices for bundled services and flat rate usage plans. Subsection .02 was revised to address the provision of flat rate service.

The Commission previously granted rule exemptions to Qwest and Frontier to provide less billing information and make information available in other ways if a customer so chooses. Order Nos. 30555 and 30621, respectively. The new Subsection .04 allows all telephone companies to provide less billing information upon customer request on terms consistent with those rule exemptions previously approved by the Commission.

Rule 202 - Due Date of Bills – Delinquent Bills

Rule 202 was revised to allow for electronic billing and addresses automatic payments. The revisions to the rule allow automatic payment transactions to occur before the normal due date with customer consent.

Rule 203 - Billing Errors, Billing Under Incorrect Rates, or Failure to Bill

Existing Rules 203 and 204 have been combined into a single rule (Rule 203). The proposed changes to Rule 203 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules. The threshold amount for refunds was increased from \$15 to \$25 at the request of telephone companies that participated in the workshop. Commission Staff receives complaints regarding billing under an inappropriate tariff schedule, inaccurately billed service and failure to bill. Staff believes that the proposed revisions to Rule 203 comply with existing law and provide telephone companies with the appropriate incentives to provide customers with accurate and timely billing for services rendered.

Rule 204 – Billing Prohibited – Billing Disputes

Existing Rule 204 was eliminated when existing Rules 203 and 204 were consolidated into a single rule. The newly-revised Rule 204 addresses billing issues, incorporating text from existing Rules 205 and 401. Rule 204 simplifies the rule and clarifies the procedures for handling billing disputes. Text from existing Rule 205 is now Subsection .01. Subsection .02 was taken from existing Rule 401.02.

Rule 205 - Responsibility for Payment of Residential Service Bills

Revised rule 205 was changed to clarify notification requirements in circumstances where a telephone company intends to transfer a bill to a customer's current service. The proposed changes to Rule 205 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules.

Rule 207 - Billing for Other Services

Existing Rule 207, which dealt with required information on bills when telephone companies billed for other services, was eliminated. Billing information requirements are now addressed in Rule 201.

Rule 300 - Explanation for Denial of a Service to a Customer

Existing Rule 301 was renumbered and is now Rule 300. Rule 300 is revised to remove the requirement that notices must be written. Both written and oral notices will be permitted to provide regulatory flexibility to telephone companies. The revision also clarifies the right of customers to file complaints with the Commission. The proposed changes to Rule 300 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules.

Rule 301 - Grounds for Denial or Termination of Local Exchange Service with Prior Notice

Existing Rule 302 was renumbered and is now Rule 301. Rule 301 is revised to clarify the rule and address timely collection of bills.

Existing Subsection .04 was eliminated because misrepresentation is covered under Rule 302.05. Subsection .05 incorporates text regarding minors that was in existing Rule 005.

The proposed addition of Subsection .06, "Obligation to Connect Service", is consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules. The proposed revision clarifies the time period when a telephone company can deny or disconnect service for an unpaid bill. Historically, Staff has taken the position that bills four (4) or more years old should not be used as grounds for denial or disconnection of service.

The Telephone Customer Relations Rules should encourage utilities to pursue collection of unpaid past due bills expeditiously. It is important to remember, however, that prior bills may remain unpaid for a variety of reasons, including a dispute over responsibility for payment due to a change in marital status or disagreement among roommates, lack of knowledge on the part of the person whose name was used without authorization to establish service (identity theft), or failure to receive a final bill after disconnection of service due to mail delivery problems. Lack of payment does not necessarily mean that a customer or applicant has knowingly avoided payment of a debt. When a complaint is filed with the Commission regarding an unpaid prior bill, the Staff must determine whether the telephone company's records are correct with respect to both billing and payment history. The older the bill in question, the harder this process becomes.

In addition, Idaho law specifies the time after which debts cannot be collected through litigation to avoid the inherent complications and imprecision of determining liability for old debt. *Idaho Code* § 5-217. Debts on oral contracts cannot be pursued four (4) years or more after the date of last activity on the account. Most requests for telephone service are made over the telephone. Placing a certain time limit encourages creditors to pursue collection in a timely manner. It is reasonable to follow a similar course of action with respect to denial or disconnection of telephone service for a prior bill four (4) or more years old. The Commission Staff faces the same difficulties experienced by the Court when trying to resolve aging billing disputes. Under either scenario, telephone companies may pursue collection of old prior bills but may not threaten to deny or disconnect service.

Rule 302 - Grounds for Denial or Termination of a Service, Without Prior Notice

Existing Rule 303 is renumbered and is now Rule 302. As revised, Rule 302.05 eliminates restrictions (dollar amount owed and deposit amounts held) that prevent a telephone company from disconnecting service without notice in circumstances where misrepresentation has occurred.

Rule 303 - Requirements for Notice before Termination of Local Exchange Service

The proposed changes to Rule 303 make it consistent with its corresponding rule found in the Commissions Utility Customer Relations Rules.

Rule 304 - Contents of Notice of Intent to Terminate Local Exchange Service

Subsection .01.f clarifies that partial payments will go to past due local exchange service first. It also eliminates the requirement that customers be allowed to allocate partial payments in ways other than the normal process used by telephone companies. This change accommodates telephone companies that have billing systems that are not sufficiently flexible to honor differing payment allocation requests from customers. Verizon has difficulty in this respect and was previously granted a rule exemption by Commission Order No. 29321. The proposed changes to Rule 304 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules.

Rule 306 - Serious Illness or Medical Emergency

Subsection .03 makes it optional for companies to allow a second medical postponement of disconnection. Making the second postponement optional alleviates the need to retain criteria for refusing to postpone disconnection a second time. The proposed changes to Rule 306 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules.

Rule 308 - Insufficient Grounds for Termination of Local Exchange Service

The proposed changes to Rule 308 make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules. References to specific services have been removed; some of the previously listed services such as directory advertising are no longer regulated by the Commission. Existing Subsection .04, "Other Person Has an Unpaid Balance for Service", was eliminated to remove reference to a particular situation less frequently encountered in today's telecommunications environment. To the extent that misrepresentation is involved, other rules apply. The proposed changes to Subsection .01.d, .01.e and .01.f make it consistent with its corresponding rule found in the Commission's Utility Customer Relations Rules.

Justification for the addition of Subsection .01.d was addressed in the discussion of Rule 301.06 above.

Rule 309 - Restrictions on Termination of Local Exchange Service – Opportunity to Avoid Termination of Local Exchange Service

As proposed, Subsection .01 would prohibit denial or disconnection all day on Friday, except for certain circumstances, i.e., where there is illegal use of service or the premises are unoccupied and service has been abandoned by the previous customer. Currently, denial or disconnection for any permissible reason is allowed until noon on Fridays. Customers who are disconnected on Friday are placed at a disadvantage, having less opportunity to make the financial arrangements necessary to pay a bill and have service reconnected before the weekend. Although customers receive several notices before service is disconnected, the unfortunate reality is that some simply are not able to pay prior to the time service is disconnected. If disconnection on Fridays is discontinued, customers who are disconnected on Thursday will have the opportunity to reconnect service on Fridays and avoid not having service over the weekend.

To balance the general “no disconnection on Friday” provision, the rule is changed to expand by one hour the time period during which denial or disconnection can take place, with the deadline changed from 4 p.m. to 5 p.m. This provides telephone companies a full day, 8 a.m. to 5 p.m., Monday through Thursday, to perform disconnections for any permissible reason. The rule also provides a full day on Friday to perform disconnections if there is illegal use of service or where the premises are unoccupied and service has been abandoned. This change allows utilities more hours in a workweek to perform disconnections than allowed under the existing rules, where disconnection for only a half day on Friday is allowed. Staff does not believe this change will impose a significant hardship on customers. Customers still will have the opportunity to make financial arrangements and have service reconnected either on the same day or the next day.

Subsection .02.d allows denial or disconnection from 5 p.m. and 9 p.m., Monday through Thursday, if the telephone company is unable to gain access to its equipment during normal business hours or for illegal use of service. The proposed changes to Subsection .05 make it consistent with its corresponding rule found in the Commission’s Utility Customer Relations Rules.

Rule 310 - Payment Arrangements

Rule 310.03 was revised to be consistent with Rule 304.01.f. Existing Subsection .04 was combined with Subsection .03. The notice requirements in existing Subsection .04 were removed and are now covered in Rule 600.

Rule 312 - Cessation of Service in a Service Area

The addition of new Rule 312 prescribes actions that need to be taken by telephone companies that intend to disconnect all services to all customers.

Rule 400 - Complaint to Telephone Company

The text from existing Rule 400.02 regarding billing disputes was moved to Rule 204.02.

Rule 401 - Review by Commission

Rule 401 was revised to explicitly state the Commission's authority to investigate and resolve complaints.

Rule 601 - Directories and Customer Listings

Existing Rule 601 contains obsolete provisions and was eliminated. Telephone directories are no longer regulated by the Commission. In many instances, directories are printed and distributed by unrelated third parties.

Rule 600 - Information to Customers

Existing Rule 602 is renumbered as Rule 600 and underwent substantial revisions. It now incorporates subject matter currently contained in Rule 602 of the Telephone Customer Relations Rules as well as Rules 101 and 104 of the Telephone Customer Information Rules. Revised Rule 600 covers what, when, and how telephone companies need to provide information to customers. Given the fact that directories no longer are the appropriate vehicle for providing critical information to customers, this rule prescribes other methods for communicating with customers.

Subsection .01.b.iii adds the requirement that early termination fees be disclosed to customers. With increasing frequency, customers have alleged that companies failed to disclose early termination fees at the time the customers signed up for service.

Rule 602 - Request for Telephone Company Records

Rule 602 was revised to simplify the rule by eliminating the detailed discussion of court orders and subpoenas.

Rule 604 - Public Notice

Rule 604 incorporates the notification requirements of Rule 102 of the TCIR. Reference to telephone directories is retained in this rule because that mirrors the statutory requirement found in Idaho Code §48-1009.

Rule 605 - Telephone Solicitations

Rule 605 incorporates existing provisions of Rule 105 of the TCIR.

Rule 606 - Information, Price Lists or Tariffs for Non-Local Exchange Service

Rule 606 incorporates existing provisions of Rule 202 of the Title 62 Telephone Corporation Rules.

Rule 607 -- Price Lists or Tariff Filings

Rule 607 incorporates existing provisions of Rule 203 of the Title 62 Telephone Corporation Rules.

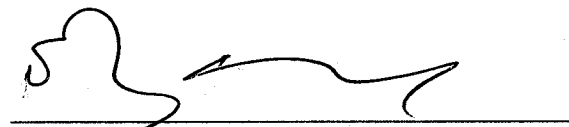
Rule 608 - Form and Number of Copies of Price List or Tariff

Revised Rule 608 incorporates existing provisions of Rule 204 of the Title 62 Telephone Corporation Rules.

STAFF RECOMMENDATION

Staff recommends adoption of the proposed changes to the Telephone Customer Relations Rules.

Respectfully submitted this 28th day of October 2009.


Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Beverly Barker
Daniel Klein

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