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IDAHO PUBLIC UTILITIES COMMISSION

**FORMAL COMPLAINT  
FROM ATLANTA, IDAHO PHONE CUSTOMERS  
CONCERNING  
RURAL TELEPHONE CO.**

January 12, 2007

PUC Commission Secretary  
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Ron Law

RUR-T-07-01

Dear PUC Staff:

**Respondent:** Rural Telephone Company

**Time Period Concerned:** 11-22-05 to 1-9-06

**Acts We Are Complaining About and Related Statutes, Rules, Orders or Other Controlling Laws Involved:**

- I.  
RURAL TELEPHONE CO. DISCRIMINATING AGAINST CUSTOMERS WHO COMPLAIN ABOUT POOR SERVICE. RURAL TELEPHONE PENALIZING SAID CUSTOMERS**
- II.  
RURAL TELEPHONE CO. ARBITRARILY RECLASSIFYING THE ACCOUNT OF CUSTOMERS WHO COMPLAINED ABOUT POOR SERVICE FROM A "RESIDENTIAL ACCOUNT" TO A "BUSINESS ACCOUNT"**
- III.  
RURAL TELEPHONE CO. BEING ALLOWED TO: (a) DETERMINE THE DEFINITION OF THE WORD "PRIMARILY," (b) ARBITRARILY CHANGE THE CLASS OF CUSTOMER SERVICE FROM RESIDENTIAL TO BUSINESS BY USING A "RURAL TELEPHONE DEFINITION," AND (c) USE A "GUIDELINE" TO DETERMINE CUSTOMER CLASS OF SERVICE THAT IS NOT STANDARDIZED ACROSS IDAHO AND THEREFORE DISCRIMINATES AGAINST SOME CUSTOMERS**

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**IV.  
RURAL TELEPHONE CO. ILLEGALLY THREATENING TO DISCONNECT  
THE 864-2158 ACCOUNT WHILE A COMPLAINT IS PENDING AND BY  
USING AN ILLEGAL FORM AND AN ILLEGAL METHOD FOR THREATENING  
TO DISCONNECT THE ACCOUNT**

**V.  
RURAL TELEPHONE CO. NOT TRAINING ITS TECHNICIANS SO RURAL  
STAFF CAN MAKE EDUCATED DECISIONS AND AVOID EXTENDED  
OUTAGES AS WELL AS OTHER SERVICE PROBLEMS IN THE ATLANTA  
AREA**

**STATEMENTS OF FACT**

**I.**

**A.**

**STATEMENT OF FACTS RE: RURAL TELEPHONE CO. DISCRIMINATING  
AGAINST CUSTOMERS WHO COMPLAIN ABOUT POOR SERVICE AND  
PENALIZING SAID CUSTOMERS**

As per PUC RULE 402, Rural Telephone customers have the right to complain about poor phone service and lack of phone service. PUC has advised us to re-file the formal complaint in this document.

Rules related to this complaint that were violated by Rural Telephone

- Rule 008 Exercise of right by customer
- Rule 011 Conflict
- Rule 02 Complaints

During the time period of 11-22-05 to 1-6-06, Rural Telephone customers in Atlanta were without phone service for weeks.

Between November 22-30, 2005, Atlanta customers were without phone for 8 days straight. Customers had a few hours of relief on November 30 but the

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second long outage began on that same day and continued until December 7, 2005.

The only reason the first outage was fixed even for a few hours was because Bill Uhl told Mark Martell (Rural Telephone's official) that he could see what the problem was when he was snowmobile riding. The problem was snow on the solar panels. Martell gave Uhl permission to ride his snowmobile up to the repeater on James Cr. to clear the snow off the solar panels. Uhl's actions briefly alleviated the problem because the phones could run on solar power until the sun went down. Then the outage resumed so Atlanta was without phones from the evening of November 30 until December 7.

A third outage began on December 22, 2005. This outage continued until January 4, 2006—another 13 days without phones.

This means the total days without phones was 29 days in a 44 day period.

Customers Uhl and Helge filed a formal complaint with PUC because, as detailed in their original complaint to PUC, Rural did not even attempt to fix the problem on numerous occasions.

Please note:

- Recreational snowmobilers and a local trapper were coming and going on James Cr. Rd. between Rocky Bar and Atlanta the entire time that Rural Telephone said they could not get to the repeater at James Cr. Snowmobilers riding for recreation even rode their snowmobiles up to the repeater during this time period. Rural Telephone never tried to access the James Cr. repeater from the Atlanta side, the shortest and easiest way to reach the repeater by snowmobile.
- The Rural Telephone contract person at that time, Sandy Nye, informed Atlanta customers that all of Rural's technicians were out of state during the first outage so there would be no attempt to fix the problem for quite a while.
- The following is another reason we know the phone outages were unnecessary and continued beyond any reasonable length. During the outages, PUC personnel told Rural customers who communicated with PUC by satellite internet that Rural had told PUC staff that the problem was at the Trinity Mountain repeater. It turned out that the problem was really at the James Cr. repeater. This is significant because James Cr. was accessible the entire time, including by recreational snowmobilers. Rural claimed over and over that the problem was at Trinity but never checked out James Cr. In case this isn't clear, allow us to rephrase:

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There was only one problem during the 29-day outage. The problem was at the James Cr. repeater . . . bad batteries . . . so a solar panel could not recharge the batteries. Therefore, snow froze on the panels and solar power was not available. Unfortunately, Rural never checked the James Cr. repeater site during that time. Yet Rural continued to claim the problem was at Trinity.

**It is no accident that the notice to change our service classification from residential to business came on the heels of our complaints.** Instead of fixing the problem, Rural sought retaliation for valid complaints. Rural looked at our account in a discriminatory manner and then created problems for us. Retaliation and discrimination are illegal.

Martell of Rural knew that we were complaining to PUC staff about Rural not fixing the phones during the extensive outages. On January 4, Martell wrote a letter saying that (208) 864-2158 would arbitrarily be considered a business number. (This date was the last day of the 13-day outage.)

Customers were flabbergasted to receive Martell's letter. The account had always been a residential number and nothing had changed.

It cannot be overemphasized how discriminatory Martell's actions were. Attacking us because we complained about poor phone service constitutes blatant discrimination against selected customers. Discrimination is prohibited by the U.S. Constitution, Idaho State Statutes, and by PUC regulations.

Martell was discriminating against us for exercising our rights to file a complaint (Rule 02) with the PUC.

We protested and supplied an abundance of information indicating that Rural was discriminating.

**B.**

### **PLEA FOR PUC ASSISTANCE TO CUSTOMERS . . . RELIEF DESIRED**

We request that Rural be sanctioned for discrimination against customers and for trying to penalize customers for complaining to PUC. We also request that Rural pay punitive, compensatory, exemplary, general, vindictive, and specific damages to us for damage that has occurred.

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## II.

### **RURAL TELEPHONE CO. ARBITRARILY RECLASSIFYING THE ACCOUNT OF CUSTOMERS WHO COMPLAINED ABOUT POOR SERVICE FROM A "RESIDENTIAL ACCOUNT" TO A "BUSINESS ACCOUNT"**

#### Rules related to this complaint that were violated by Rural Telephone

- Rule 02 Complaints
- Rule 008 Exercise of right by customer
- Rule 011 Conflict with telephone tariffs
- Rule 09 Residential telephone service

Rule 09 states, if a phone line is in a dwelling and is used PRIMARILY for personal and domestic purposes, it is a residential service.

#### **Note:**

- **The question is not whether 864-2158 is used for business. The question is whether 864-2158 is used "primarily" for residential or business. Our phone is used primarily for residential use.**
- Since PUC has not defined the word "primarily" as it applies to Rule 09 Residential Telephone Service, the accepted legal meaning for "primary" would apply. According to *Blacks Law Dictionary 4<sup>th</sup> Edition*, page 1354,

"primary means primary purpose or intent; principle or first intentions with which an act or course of conduct is undertaken; that which is first in intention."

- Also, since PUC has not assigned a value to what constitutes "primarily," a reasonable person can only assume that 50.1% would constitute "primary use."
- With the advent of satellite internet, the phone is no longer the primary source of communication. It has become the last choice for Rural Telephone customers. This is true, if for no other reason, than the sheer cost of using the phone. Satellite internet is by far more economical. It is also more reliable than Rural Telephone services.
- In our case, 99% of all of our calls are long distance because any call made to anyone outside of Atlanta, Idaho is a long-distance call! Using Rural Telephone long-distance service is our last choice.

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**Note:**

- **A precedent. Case No. U-1038-9 Order No. 18102**, the case of the door to door saleswoman who was harassed and discriminated against by a rural phone company. Her primary source of communication was person to person so it was ruled that having her phone number on her business card and flyers was okay.
- Phone customers all over the U.S. are using a ground phone line for their internet connection. They are buying and selling on E-Bay and running all kinds of home businesses using a ground phone line, not satellite. They are using a residential phone line and are not being harassed by their local phone company or being discriminated against.
- PUC cannot allow a phone company to harass and discriminate against customers who exercise their right to complain about poor service . . . in this case no service . . . for over 3 weeks. PUC also cannot allow a phone company to discriminate against customers just because they have a phone in their home, especially when it is not used for their internet connection. In the case of our account, satellite internet is our person to person communication. It is our primary source of communication. Again note the precedent set in Case No. U-1038-9 Order No. 18102.

**PLEA FOR PUC ASSISTANCE TO CUSTOMERS . . . RELIEF DESIRED**

We request that:

- our "residential" classification be re-enstated and that Rural stop billing us for a business line.
- Rural be audited to determine if any other customers in Rural's entire service area have been discriminated against in the past or are being discriminated against at this time.
- Punitive, compensatory, exemplary, general, vindictive, and special damages be awarded to us for damages that have occurred.

III.

**STATEMENT OF FACTS RE: RURAL TELEPHONE CO. BEING ALLOWED TO: (a) DETERMINE THE DEFINITION OF THE WORD "PRIMARILY" AND (B) ARBITRARILY CHANGE THE CLASS OF CUSTOMER SERVICE FROM RESIDENTIAL TO BUSINESS BY USING A "RURAL TELEPHONE DEFINITION," AND (c) USE A "GUIDELINE" TO DETERMINE CUSTOMER CLASS OF SERVICE THAT IS NOT STANDARDIZED ACROSS IDAHO AND THEREFORE DISCRIMINATES AGAINST SOME CUSTOMERS**

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### Section III A.

#### Related to this complaint: Case No. RUR-T-06-1

In PUC Staff Report Case No. RUR-T-06-1, please see the statement on page 12, "It is the company's responsibility to consistently use reasonable judgment in deciding whether to change a customer's service class from residential to business."

Please clarify:

- What constitutes "reasonable judgment?"
- What investigatory methods will be used?

It is the PUC's job to protect customers from unethical practices of utility companies. PUC has a responsibility to set the standard. PUC's job is to tell phone companies how service class should be determined. Giving that power to utility company staff sets the stage for discrimination.

If the fox is appointed to guard the hen house (if Rural Telephone regulates and polices itself), there is no need for PUC to exist. If each utility sets its own standards, what is acceptable in one area of Idaho will vary widely from what is allowed in another part of the state. This equals discrimination.

On the other hand, if PUC sets *a consistent standard to be applied across the entire state of Idaho*, no utility company will be able to discriminate against a particular customer.

A consistent standard would be in line with Idaho's anti-discrimination laws (and the U.S. Constitution). **This is also very important when, on more than one occasion, Rural Telephone has violated PUC rules.**

If it is really true that PUC has given Rural Telephone the latitude to determine its own definition of "primarily," it can determine a different definition than other phone companies. **It can arbitrarily devise its own unique method of determining a different class of customer service.** This is discriminatory. Also, when a person moves to a different geographic area of Idaho, a totally different definition and method of classification will be used. The Idaho legislature would frown on such a practice, particularly when:

- o it appears that the word "primarily" is applied in a different way in diverse areas of Idaho by different companies in PUC's answer

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to our previous questions, PUC staff said there is no written definition of "primarily." Thus, one can only assume that "primarily" means that, at least 50.01% of the time, the phone is used for residential use.

- o Note that Rural Telephone also has no written definition of "primarily" and customers are given absolutely no information about "primarily" when they sign up for service.
- o Again, it is very important to note that PUC has also not provided any definition of "primarily." If PUC or Rural Telephone arbitrarily came up with a definition of "primarily" at this point, it would be discriminatory to apply such a definition "after the fact of contention."

### **Section IIIB**

#### **Rules violated: 09 Residential telephone service and Rule 011 Conflict with telephone tariffs**

In the most recent Case No. RUR-T-06-1, PUC staff used the word "incidental business use." "Incidental" has a very different meaning than "primarily." This inconsistency violates PUC Rule 09. (This Rule uses the word "primarily.")

Please note that the very fact that PUC approved illegal tariffs of Rural Telephone is wrong and was not intended by the Idaho legislature. This PUC approval took away the rights of customers. Those rights are protected by Rule 011 Conflict (dated 7-1-93).

#### **PLEA FOR PUC ASSISTANCE TO CUSTOMERS . . . RELIEF DESIRED**

We request that:

- o PUC set a step-by-step method to determine whether an account is residential or business OR eliminate the need for different types of classifications. This is done by many utilities, such as cell phone companies.
- o Determine how many customers have been discriminated against since PUC approved Rural Telephone's tariff.
- o Re-enstate our "residential" classification and require Rural to stop billing us for a business line.
- o Audit Rural to determine if any other customers in Rural's entire service area have been discriminated against in the past or are being discriminated against at this time.

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- o Award punitive, compensatory, exemplary, general, vindictive, and special damages to us for damages that have occurred.

#### IV.

#### **STATEMENT OF FACTS RE: RURAL TELEPHONE CO. ILLEGALLY THREATENING TO DISCONNECT THE 864-2158 ACCOUNT WHILE A COMPLAINT WAS PENDING AND BY USING AN ILLEGAL FORM AND METHOD FOR THREATENING TO DISCONNECT SERVICE**

##### Rules related to this complaint that were violated by Rural Telephone

- Rule 011 Conflict with telephone tariffs
- Rule 304 Requirements
- Rule 306 Content
- Rule 307 Records

Rural Telephone's "notice of termination" of a phone account does not even come close to fulfilling the requirements clearly spelled out in the PUC Rules listed above.

Rural Telephone sent a letter threatening to disconnect our account. The letter was sent regular mail, which violated PUC Rules. Note that there was no guarantee we would even receive the disconnect notice. The letter did not spell out the reasons for disconnected service, even though this is required by PUC guidelines. Nor did the letter state how the customers could contest or rectify the fact that the phones would be disconnected on the date stated in the letter. We were also not given the appropriate amount of time required by PUC rules.

Also, the notice to disconnect was sent while the customer's complaint to PUC was pending.

This is an additional example of Rural's blatant disregard of PUC Rules.

#### **PLEA FOR PUC ASSISTANCE TO CUSTOMERS . . . RELIEF DESIRED**

We request that Rural be audited to ascertain how many customers within its service area have been affected by:

- o Similar illegal threats to disconnect their phones.
- o Customers not being informed of their rights before termination

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We ask that such customers be compensated for all associated costs with premature termination. We also ask that Rural Telephone be sanctioned and be required to comply with PUC rules.

Because of Rural's disregard on three separate occasions of the PUC Rules, we also ask that an audit of all of Rural's procedures and forms be conducted so that Rural can be brought into alignment with PUC rules.

In addition, we ask for punitive, compensatory, exemplary, general, vindictive, and special damages to us for damages that have occurred.

V.

**STATEMENT OF FACTS RE: RURAL TELEPHONE CO. NOT TRAINING ITS TECHNICIANS SO RURAL STAFF CAN MAKE EDUCATED DECISIONS AND AVOID EXTENDED OUTAGES AS WELL AS OTHER SERVICE PROBLEMS IN THE ATLANTA AREA**

To our knowledge, Rural technicians have still not been certified in the operation of a snowmobile and they are not certified in avalanche detection. This certification is vital for staff safety and so Rural can serve customers. This would also ensure that Rural could be trusted to be factual when stating whether or not it is safe for their employees to travel in snow conditions. Without this training, their people cannot accurately make decisions whether or not to travel. Other small/remote phone companies across America do ensure that their staff are trained and certified, so any excuse that this cannot be done is invalid.

**PLEA FOR PUC ASSISTANCE TO CUSTOMERS . . . RELIEF DESIRED**

- We request that Rural be required to provide avalanche certification and snowmobile certification classes designed to accommodate their special needs as technicians on back country assignments.
- Award punitive, compensatory, exemplary, general, vindictive, and special damages to us for damages that have occurred.

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**VI.**

**The aforementioned Atlanta phone customers seek PUC intervention as detailed above.**

**We also hereby request a written response from PUC indicating: (a) that you have received this formal complaint, and (b) how these matters will be fairly dealt with.**

Sincerely,



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