

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE AMENDMENTS TO)	
THE COMMISSION’S UTILITY CUSTOMER)	CASE NO. 31-2101-0001
RELATIONS RULES (IDAPA 31.21.01.000 <i>et</i>)	
<i>seq.</i>).)	GENERAL ORDER NO. 208
)	
)	ADOPTION OF PENDING RULE
)	

On August 28, 2000, the Commission issued a Notice of Proposed Rulemaking to amend its Utility Customer Relations Rules, IDAPA 31.21.01. On October 4, 2000, the Administrative Rules Office published the “official” proposed rules in the Administrative Bulletin at pages 592-599. Timely comments in response to the Commission’s Notice were received from the Commission Staff, Avista, PacifiCorp, Intermountain Gas, United Water, and Idaho Power Company.

THE PROPOSED AMENDMENTS

Briefly, the Commission proposed several changes to its rules. First, the Commission recommended the elimination of Rule 103 which addresses “guarantees” in lieu of service deposits. This change would mirror the elimination of guarantees in the Telephone Customer Relations Rules, IDAPA 31.41.01. Elimination of Rule 103 would also require the deletion of several cross-references in other rules. The Commission also suggested that Rule 300.04 be deleted. This rule requires utilities to maintain a list of residential and small business customer classes. Next, the Commission proposed to eliminate the reporting requirements for termination of service during the winter months in Rule 306.

The Commission proposed adding two new rules. First, new Rule 207 would prohibit the billing for services or merchandise not ordered or otherwise authorized by the customer. This rule would be similar to Rule 205 of the Telephone Customer Relations Rules (IDAPA 31.41.01.205). Second, new proposed Rule 404 would require utilities to respond within ten business days to a customer’s informal complaint.

The Commission proposed several changes to other rules. First, the Commission recommended that Rule 107 be changed to allow utilities to return deposits by issuing a refund or crediting an account. Second, the Commission recommended changing its Rule 201 to require

that bills be issued on a monthly basis. The Commission also proposed that utilities list their mailing addresses and toll-free telephone numbers on their bills rather than merely the location of customers' nearest billing office. Third, the disconnection procedures of Rule 304 are clarified and simplified. Next, the Commission proposed that Rule 305 be amended to add language regarding the application of partial payments to customer accounts. Fourth, Rule 310.01 is proposed to be modified to allow utilities to collect reasonable deposits rather than basing the deposit amount on two months' usage as a minimum. The Commission also proposed to modify Rule 310 by eliminating the provision that allows service termination for accounts which are in arrears by two months. Finally, the Commission suggested changing Rule 313 by having payments applied first to undisputed balance for utility service.

THE COMMENTS

The Staff and Avista supported adoption of the proposed rules. Avista commented that the proposed "revisions are appropriate and suggests no additional edits at this time." Other commentors offered clarifying suggestions, opposed several changes and offered several alternatives. The comments are discussed in greater detail below.

1. Unopposed Rules. In addition to the supporting comments, several rules received no opposing comment. In particular, Rules 103, (and cross-references contained in Rules 104, 302 and 310), 300, 304 and proposed Rule 404 received no objecting comments. Based on the supporting comments and the lack of any objections, we find it is reasonable to adopt the aforementioned rules.

Although the proposed changes to Rule 306 regarding the elimination of disconnection report received no objections, Intermountain Gas proposed another change. In particular, the Company proposed that Rule 306 be modified to eliminate the requirement that utilities offer customers a "winter payment plan." We decline to adopt Intermountain Gas's suggestion. The proposed modification of this rule deleted the preparation of reports that the Commission considered no longer justified. Intermountain Gas's suggestion goes beyond our proposal. Consequently, we find that the Company's suggestion is not a logical outgrowth of the proposed rule and the public would not anticipate that elimination of the winter payment plan would be contemplated. *See Idaho Code § 67-5227.*

2. Rule 107. In Rule 107, the Commission was to allow utilities returning a deposit to either credit the customer's account or issue a refund without requiring an explicit request

from a customer. No party opposed this modification but Idaho Power suggested that the Commission substitute the word “account” for the word “bill.” The Company maintained that the word “account” is a more accurate term to describe the process of applying credits. Based on the lack of any suggestion, we find our proposed rule, as modified below, is appropriate to adopt as a pending rule. We also find that Idaho Power’s suggestion to substitute the word “account” for the word “bill” is reasonable. Consequently, we modify our pending rule to reflect this change.

3. Rule 201. The Commission proposed to change the language in this rule to require “monthly” billing instead of “regular” billing. The Commission also proposed to eliminate the reference to “the utility’s nearest office.” In its supporting comments, the Staff insisted that changing the rule will establish the assumption that bills will be issued monthly and noted that the rule also prescribes a method for granting exemptions. For those utilities that currently bill for intervals other than monthly, the Staff suggested granting these companies an exemption from the “monthly” billing requirement.

United Water opposed the rule requiring monthly billings. The Company noted that changing its current two-month billing interval would add additional cost to the Company and require it to make changes to its automated billing system. Idaho Power commented that the reference in the proposed rule to monthly billing is too rigid. The Company suggested that the billing interval be established at “intervals of approximately 30 days.”

Based on the comments filed by the utility companies, we find that the language in Rule 201 should not be changed as originally proposed. The rule requires utilities to bill on a “regular” basis, which is strict enough to preclude billings for inordinate periods of time. We are persuaded that the language as it currently exists in Rule 201 is adequate to protect customers from unusual billing practices.

4. Rule 207. In this rule, the Commission proposed to adopt language to prohibit billing for services or merchandise not ordered or otherwise authorized by the customer. This proposed rule is similar to Rule 205 of the Telephone Customer Relations Rules, IDAPA 31.41.01.205. The Staff supported adoption of this rule as a means to curtail potential market abuses such as slamming (the unauthorized switching of a customer’s service provider) and cramming (the provision of a service or addition of charges to a customer’s bill without the customer’s authorization).

Although it did not object to this Rule, PacifiCorp asked for clarification whether this rule would prohibit it from providing services for other parties. In addition, Idaho Power proposed that the language be redrafted to exclude the reference to “utility service.” The Company explained that the proposed language would permit “a customer to literally require that no bill be issued, even for utility services, on a contention that utility services had not been ordered.”

We believe adoption of Rule 207, with the modification suggested by Idaho Power, is reasonable and appropriate. As the Staff pointed out, the Commission has adopted a similar rule in its Telephone Customer Relations Rules. Addressing PacifiCorp’s question, we interpret this rule as not prohibiting the provision of billing services to other parties. We adopt Rule 207 with the change recommended by Idaho Power to eliminate the references to “utility service.”

5. Rule 305. The Commission proposed to add language to disconnection notices regarding the application of partial payments and to notify that charges for non-utility services cannot be used as a basis for disconnection. The Staff supported this rule and noted that some utilities are now offering a variety of non-utility services and merchandise. For example, utilities are billing for insurance payments, satellite dish communications, and surge protection devices. In order to protect customers from losing utility service and to avoid ratepayers from uncollectible payments attributable to non-utility service, payment should be first applied to utility service.

Intermountain Gas stated that its current customer information service (CIS) “does not have the flexibility to apply partial payments to specific balances.” The Company indicated that balances are reviewed prior to disconnection to “catch any unusual or manually applied partial payment activity prior to the disconnect order.”

We believe the adoption of Rule 305 is reasonable and appropriate. The rule merely requires utilities to notify customers in disconnection notices of the existing practice regarding partial payments and payment for non-utility services.

6. Rule 310. In this rule, the Commission proposed to modify the grounds for terminating utility service. Under the current rule, a customer’s service is subject to disconnection if the amount owed is two months in arrears or the amount owing is \$50 or greater. The Commission proposes to eliminate the two-month standard and simply set the threshold for disconnection at balances which exceed \$50. In supporting the rule, the Staff asserted that

retaining the specific \$50 threshold would be easier to administer and consistent with the Commission's Telephone Customer Relations Rules.

Several companies opposed the rule. In particular, Intermountain Gas argued that eliminating the provision, which allows disconnection for two-months' arrearage, would increase the Company's risk. In particular, the Company noted that during summer months, it could take several billing cycles to reach the \$50 threshold. United Water also opposed the elimination of the two-month provision for similar reasons. The Company added that adoption of the proposed rule "has the potential of significantly reducing cash flow and unnecessarily increasing bad debt" while "increasing the number of eventual disconnects for non-payment." Finally, Idaho Power also opposed the proposed change. The Company maintains that the ability of the Company to disconnect for two-months in arrearage is a significant tool used to collect customer payments.

Having reviewed the comments directed toward this proposed rule, we find that it is reasonable to withdraw our proposed amendments to Rule 310. We agree with those reasons identified by the utilities that deletion of the two-month provision is inappropriate. Consequently, we refrain from proposing any changes to Rule 310.

7. Rule 313. In this rule, the Commission proposed to have utility payments applied first to the undisputed balance owed by a customer for utility services. The proposal eliminates the requirement specifying the due date for the first payment under a payment arrangement as well as notification payments for customers who fail to meet the deadline or pay with a dishonored check. The Staff supported the proposed changes in the interest of protecting customers from using utility service for the non-payment of non-utility services and merchandise.

PacifiCorp and Intermountain Gas objected to the proposed changes. PacifiCorp indicated that the existing rule "is helpful in that it clarifies for customers the Company's ability to follow-up on unpaid arrangements." Intermountain Gas maintained that its billing system does not have the flexibility to identify utility and non-utility charges. Idaho Power did not oppose the change but proposed alternative language for clarification. The Company recommended that the rule be rewritten as follows: "Unless the customer designates otherwise, payments are to be first applied to the undisputed balance owed by the customer for utility services, which balance includes associated charges, taxes, franchise fee and surcharges."

After reviewing the comments, we find the proposed rule should be modified as proposed by Idaho Power. Customers should not be permitted to exclude payment for applicable taxes from payment of their utility service.

8. Other Proposals. In addition to commenting on the proposed rules, Intermountain Gas suggested that the Commission modify Rule 105 to increase the maximum deposit amount that may be collected from residential customers. PacifiCorp proposed that the Commission modify Rule 303 to permit a utility to refuse to provide service when a customer with a past-due account and who is disconnected for non-payment still resides at the residence. The Commission declines to adopt these changes. *Idaho Code* § 67-5227 limits changes to proposed rules to those changes which the public might reasonably expect or are a logical extension of the proposed change. In neither of these cases would the public be notified that these rules were subject to change. Consequently, we decline the utilities' recommendations.

GENERAL ORDER

IT IS HEREBY ORDERED that the Commission adopts the proposed amendments to its Utility Customer Relations Rules (IDAPA 31.21.01) as initially proposed with the addition of those suggestions and changes in Rules 207 and 313. The Commission also deletes its proposed changes to Rule 310. The Commission directs that the pending rules be transmitted to the Administrative Rules Coordinator for publication in the next Administrative Bulletin on January 3, 2001.

IT IS FURTHER ORDERED that the pending rules shall be submitted to the 2001 Legislature for review. If approved, the pending rules shall become final and effective, unless rejected or amended, upon legislative approval by concurrent resolution or upon the date specified in the concurrent resolution.

THIS IS A FINAL GENERAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) in Case No. 31-2101-0001 may seek judicial review under *Idaho Code* § 67-5270 and Commission Rule 401 (IDAPA 31.01.01.401) regarding any matter decided in this Order.

DONE by the Idaho Public Utilities Commission at Boise, Idaho this
day of November 2000.

DENNIS S. HANSEN, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

Vld/O: 31-2101-0001_gen Order_dh