

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 529

In the Matter of Amendments to)	
OARs 860-021-0305, 860-021-0405,)	OREGON PUC STAFF'S
860-021-0505, 860-034-0180 and)	RESPONSIVE COMMENTS
860-034-0260.)	

Staff reviewed Qwest's comments in AR 529 which were submitted after the public hearing on October 28, 2008, and takes this opportunity to respond.

Staff is advised by its legal counsel that the purpose of the Notice of Proposed Rulemaking Hearing (Notice) that is filed with the Secretary of State is to inform the interested public about the proposed agency action. Accordingly, Staff's counsel advises that a final rule may be invalid if it differs substantially from the proposed rule set forth in the Notice. Staff is concerned that each of Qwest's three proposals may fall outside of the scope of the Notice, particularly the proposal to add a new subsection (2)(c) to OAR 860-021-0505 to allow disconnection for false identification (ID).

In addition to the legal concerns discussed above, Staff further opposes Qwest's suggestion on the merits discussed below.

1. Qwest requests deletion of 860-021-0305(5), asserting it will be burdensome to administer. Qwest appears to believe this is a new section; it is not. This section has been a longstanding part of this rule and has not been altered by the Commission Staff's proposed rule in this rulemaking other than to be re-numbered from section (3) to section (5). Qwest wishes to eliminate a section of this rule that was not altered by this rulemaking, and that has no connection to the stated purpose of the rulemaking. Staff opposes Qwest's proposal.

2. Qwest requests what appears to be a minor addition to 860-021-0505(2) and 860-034-0260(2) by adding language that allows the company to send disconnect notices via email to customers who request an electronic notice (e-bill customers). One of the problems with this proposal is that if an e-bill customer is in danger of having local telephone service disconnected, it is quite possible that the customer's internet service may have already been disconnected making it

impossible for a customer to receive the emailed disconnect notice. Other potential problems with this proposal are that an emailed disconnection notice could be mistaken for a phishing email or blocked by a spam filter. In addition, this change has no direct connection to the stated purpose in the rulemaking notice. Staff opposes Qwest's proposal. The associated changes to sections 860-021-0505(5) and 860-034-0260(5) and 860-034-0260(3) should also be rejected.

3. Qwest requests adding a new exception (c) to rule 860-021-0505(2) and 860-034-0260(2) which would allow for disconnection without notice to the customer whom they believe used false ID to establish service. Currently, there are only two circumstances where a disconnect notice is not required: (a) if the disconnect is at the customer's request and (b) if an emergency situation exists. At a PUC Staff-hosted workshop with stakeholders in November 2007, Qwest proposed this new exception. Staff was then and still is now opposed to this idea because customers should be given the opportunity to verify their identity before service is disconnected. Under Qwest's proposal, if the company believes false ID was used to establish service it could disconnect the customer immediately without notice, then require the customer to provide verification of their identity. The customer should always be given the opportunity to verify their identity before service is disconnected. The possibility exists that the company could make an error in taking customer identifying information and the customer could be disconnected through no fault of their own. The current 5-day notice requirement is fair to both the customer and the company.

Staff reviewed Oregon Housing and Community Services' comments in AR 529 which were submitted on November 4, 2008, and responds as follows:

In its comments filed November 4, 2008, the Department of Oregon Housing and Community Services (OHCS) cites two concerns with the Need and Fiscal Impact Statement filed in this rulemaking docket and also requests further analysis on the impact of the rule changes upon low income and elderly consumers.

PUC staff disagrees with the recommendations of OHCS for the following reasons:

1. OHCS is concerned that the proposed five-day grace period may not be enough time for certain individuals to provide valid ID. This rulemaking does not make any changes to the existing five-day notice requirement period; the five-day notice of disconnect is contained in the current rules (OAR 860-021-0405, 860-021-0505, 860-034-0260). Consumers who are disconnected for non-payment have always been subject to paying delinquent arrearages in order to have service resorted.

2. OHCS's assumption that utilities will disproportionately target low-income consumers for identification (ID) authentication is not valid. Presently, utilities are allowed to ask applicants for valid ID before accepting them for service. If the company suspects that false ID may have been used to establish service, it will conduct an investigation and often require the customer to verify ID. This practice does not inherently target low-income consumers as suggested as any customer may be subject to this review.

None of the rules that relate to the issues OHCS is concerned with have changed with this rulemaking. The Commission has clearly established that utilities have a right to require valid ID. The recommendations of OHCS would threaten that long established principle.

Respectfully Submitted,

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OPUC