

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 SA 301

4
5 In the Matter of BENDTEL INC
6 (ID #7909)
7 Assessment of RSPF Late
8 Fees/Penalties/Interest

COMMISSION STAFF’S MOTION TO
ADMIT STIPULATION AND REQUEST
FOR WAIVER

9 Pursuant to OAR 860-001-0350(7), Staff of the Public Utility Commission of Oregon
10 (Staff) moves to admit into the record the enclosed Stipulation executed by BendTel Inc and
11 Staff (Parties) which resolves all outstanding issues in this proceeding.


12 Further, pursuant to OAR 860-001-0000(2), the Parties request that the Commission
13 waive OAR 860-001-0350(7)(a)’s requirement that the Parties file an explanatory brief or written
14 testimony in support of the Stipulation. The reason for the requested waiver is that the
15 Stipulation contains all pertinent information supporting it. See Stipulation, Heading 3:
16 BendTel’s and Commission Staff’s Stipulation and Supporting Reasons.

17 The Parties request that the Commission grant their requested waiver and enter an Order
18 adopting the enclosed Stipulation.

19
20 DATED this 19th day of May, 2017.

21 Respectfully submitted,

22 ELLEN F. ROSENBLUM
23 Attorney General

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25 _____
26 Michael T. Weirich, #824250
Assistant Attorney General
Of Attorneys for Staff of the Public Utility
Commission of Oregon

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(ID #7909)
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STIPULATION

The undersigned parties do hereby agree and stipulate as follows:

1. Commission Proposed Assessment and BendTel Inc.'s Response

The Public Utility Commission of Oregon (Commission) issued its Notice of Proposed Assessment to BendTel, Inc. (BendTel or Company) on January 12, 2017 for the sum of \$9,309.09, including Residential Service Protection Fund (RSPF) late payment penalties, interest, and late report fees for April 2010 to April 2013 and May 2013 to June 2016, with the exception of August 2015 and September 2015 to January 2016.¹

BendTel filed its Request for Hearing (Request) based upon certain grounds identified in its Request.

2. Relevant Background Facts and Applicable Law

A. Commission First Allegation: RSPF Charges from April 2010 to April 2013

Commission Staff notified Respondent BendTel on April 18, 2013 that the Company had been collecting RSPF surcharges without timely filing a report (Report) and remitting them when due to the Commission. Failure to file the Report and remit

¹ The parties note that the Notice of Proposed Assessment (Notice) stated the excepted months were "August 2015, September 2015 and January 2016." (Emphasis added). The correct statement of the time period is as shown in the narrative (i.e., "September 2015 to January 2016). To the extent necessary, Staff and BendTel agree that this Stipulation serves to amend the Notice as indicated in the narrative above.

RSPF surcharges violates OAR 860-033-0006. Relevant to this matter, Commission Staff determined that BendTel had failed to file the required Reports, with accompanying surcharge remittances, for the months commencing in April 2010 and concluding April 2013.

In an email dated May 31, 2013 from BendTel representative Jennifer Haller to Commission RSPF Program Manager Jon Cray, the Company requested that it be allowed to pay the past due remittances through a "catchup" monthly payment plan. Under BendTel's proposal, the Company would remit the RSPF surcharges for the current month plus pay at least three additional past due months until the Company became current for all past due surcharges. In a responsive email dated May 31, 2013, Mr. Cray informed Ms. Haller, among other matters, that Commission Staff had not yet determined whether the Company's proposed catchup payment plan was appropriate and that BendTel should refrain from implementing it until further notice. Nonetheless, BendTel did implement its payment plan and Commission Staff accepted the payments made under the plan without further objection.

BendTel paid the RSPF amounts in arrears by November 2014, but did not pay penalties, interest or late fees on those sums. The Commission has asserted in its Notice that BendTel owes \$7,693.08 in late reporting fees, penalties and interest for this time period as required by OAR 860-001-0050(2)(b) and (3)(e).

B. Commission Second Allegation: Failure to Timely File RSPF Reports, and accompanying remittances from May 2013 to June 2016

For the time period from May 2013 to June 2016, except for the August 2015, April 2016, and May 2016 Reports, BendTel filed its Reports in a timely manner. However, BendTel failed to submit the RSPF surcharges related to these Reports in a timely manner as required by OAR 860-033-0006(5) for the time periods of May 2013 to June 2015, August 2015, and February 2016 to May 2016. While BendTel has now remitted all of these RSPF surcharges, the Commission asserts that the Company owes penalties, interest and late reporting fees related to its failure to timely remit the surcharges in the amount of \$1,616.01.

3. BendTel's and Commission Staff's Stipulation and Supporting Reasons

For its part, BendTel contends that it misunderstood whether and to what extent such interest, penalties and late fees would be assessed and charged. BendTel further asserts that it appears there may have been miscommunication between the parties on the subject.

BendTel has informed Commission Staff that the Company has corrected and improved its procedures to ensure that all future RSPF surcharges will be duly collected and timely remitted to the Commission with the required Reports.

For its part, Commission Staff understands that BendTel may have misunderstood that its proposed payment plan should have included applicable late reporting fees, penalties and interest. Staff further appreciates the Company's cooperation in this matter, its ultimate full remittance of past due RSPF remittances, and its implementation of improvements to its reporting procedures. As such, Staff is willing to recommend to the Commission that it waive a portion of the assessed interest, penalties and interest pursuant to OAR 860-033-0001(2) and 860-033-0006(10).

Based upon the unique circumstances of this matter, Commission Staff and BendTel jointly recommend to the Commission that it be resolved on the following terms:

A. Within 10 days of approval of this Stipulation by the Commission, BendTel will pay the entire sum of \$5,309.09 in payment of the sums under the Notice of Proposed Assessment;

B. The Commission will waive the sum of \$4,000, representing certain late report fees contested by BendTel under the Notice of Proposed Assessment.

DATED this 12 day of MAY, 2017.

BENDTEL INC.



By: Tom Barrett
Its: President

PUBLIC UTILITY COMMISSION OF
OREGON



By: Jon Cray
Its: Program Manager,
Residential Service Protection Fund