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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 1180

In the Matter of	)	
	)	
PUBLIC UTILITY COMMISSION OF	)	ORDER
OREGON	)	
	)	
Residential Service Protection Fund (RSPF)	)	
Surcharge Rate Review and Recommendation	)	
for Decrease.	)	

**DISPOSITION: SURCHARGE DECREASED**

Under Oregon law, the Commission must review the Residential Service Protection Fund (RSPF) surcharge amount once each year and ensure that the fund balance does not exceed six months' worth of projected expenses. Chapter 290, Oregon Laws 1987, Section 7(1) allows for a monthly surcharge to be assessed on each subscriber line, not to exceed \$.35 per line. The purpose of the surcharge is to provide revenue for three programs: Telecommunications Devices Access Program (TDAP), Oregon Telephone Assistance Program (OTAP), and Oregon Telecommunications Relay Service (OTRS). Staff completed an annual review of the surcharge revenues, expenditures, and ending balances, and prepared a recommendation.

RSPF is restricted by statute to maintaining a maximum six-month balance of projected expenses.<sup>1</sup> Over the past few years, the balance has been consistently larger than the amount allowed by law. At the November 9, 2004 public meeting, Staff recommended that the Commission adopt a new surcharge amount of 10 cents per line for the next calendar year, to be effective January 1, 2005. The Commission adopted Staff's recommendation. Staff's recommendation report is attached as Appendix A, and incorporated by reference.

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<sup>1</sup> See Chapter 290, Oregon Laws 1987, Section 7(3).

**ORDER**

IT IS ORDERED that the Residential Service Protection Fund surcharge amount is decreased to 10 cents per line for 2005, effective January 1, 2005.

Made, entered, and effective \_\_\_\_\_.

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**Lee Beyer**  
Chairman

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**John Savage**  
Commissioner

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**Ray Baum**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

ITEM NO. CA1

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: November 9, 2004**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  January 1, 2005

**DATE:** October 25, 2004

**TO:** Commissioners Lee Beyer, Ray Baum, and John Savage

**FROM:** Damara Paris, RSPF Manager

**THROUGH:** Rick Willis, PUC Executive Director  
Victoria McLean, Central Services Administrator

**SUBJECT:** RESIDENTIAL SERVICE PROTECTION FUND: Surcharge Rate Review and Recommendation for Decrease.

**STAFF RECOMMENDATION:**

Staff recommends the monthly surcharge for the Residential Service Protection Fund (RSPF) be decreased from the current \$.13 per subscriber line to \$.10 per line effective January 1, 2005.

**DISCUSSION:**

Under Oregon law, the Commission must review the RSPF surcharge amount once each year to ensure the fund is adequate. Chapter 290, Oregon Laws 1987, Section 7 (1), allows a monthly surcharge to be assessed on each subscriber line, not to exceed \$.35 per line. The purpose of the surcharge is to provide revenue for three of the telecommunication assistance programs: Telecommunication Devices Access Program (TDAP), Oregon Telephone Assistance Program (OTAP) and Oregon Telecommunications Relay Service (OTRS). The current RSPF surcharge is \$.13 per line, and has been at this rate since January 1, 2002.

RSPF is restricted by statute to maintaining a maximum six-month balance of projected expenses.<sup>2</sup> Over the past few years, the balance has been consistently larger than the amount allowed by law. There are several factors that contributed to the balance remaining over the allocated amount for this period of time.

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<sup>2</sup> Chapter 290, Oregon Laws 1987, Section 7 (3).

One reason included the new contract with a relay provider. In June 2003 RSPF and the Department of Administrative Services (DAS) began working on an RFP in June 2003 for a new contract period with a telecommunications relay service provider for OTRS. We anticipated that the new rate would be higher because the prior contract rate for OTRS was approximately three years old. Instead, the rate decreased from \$1.175 to \$1.05 per minute. A second reason is that the number of relay minutes has decreased over the last few years, and continues to decrease, albeit at a slower rate than two years ago. Some of the factors that contribute to this decrease include the advent of newer technologies including pagers, instant messaging, e-mail and free relay services through more mobile phone systems, such as TTY accessible cell phones. Web-based relay services, including Internet Relay and Video Relay Services (VRS), are supported entirely by the interstate fund through the National Exchange Carriers Association (NECA) and offer free long distance to relay users. Web-based relay is not included in the relay contracts with states because there is no clear way for states to determine the call origination and therefore distinguish interstate vs. intrastate calls. A large part of relay traffic has shifted to web-based relay services, decreasing the amount of funds states spend on traditional relay services.

In addition, we anticipated that the FCC would mandate Internet Relay services and VRS this year, placing some of the cost of these services onto state relay programs. While Internet Relay services are reimbursed by NECA at the same rate as traditional relay services, VRS currently costs \$7.282 per minute, more than five times the rate that OPUC currently pays for traditional relay. While a Further Notice of Proposed Rulemaking has been released over the summer, and the FCC is soliciting comments on the feasibility of passing on the costs of these innovative relay services to the states, it is unlikely that that Internet Relay or VRS will be mandated within the next two years.

Staff considered the increase of OTAP recipients, and therefore the increase in the cost of low-income telephone subsidies as a potential justification for not decreasing the surcharge rate. However, to date, the decrease in OTRS expenditures due to the lower contract rate and decrease in the number of relay minutes is considerably larger than the increase of OTAP recipient expenditures.

Staff also looked at the growth of telecommunication services. The annual growth of lines continues to waiver between 2.3 and 2.5 percent. Because of this continued growth in RSPF surcharge revenue, it was determined that the monthly revenue would continue to increase.

In determining the specific rate for the RSPF surcharge, staff considered projections over the next two years, beginning with July 2004. We anticipate that the spend down to a six month reserve balance will take 3 years if the rate is decreased to \$.11 cents per line, and two years if it is decreased to \$.10 per line. While the rate could be decreased to 8 or 9 cents to reach a six month projected balance sooner, both the OTRS Industry Advisory Group and the Telecommunication Device Access Program Advisory Committee (TDAPAC) expressed concern about spending down too quickly, particularly if other factors such as a larger than anticipated surge of OTAP recipients or an FCC order with increased relay mandates is

issued this year. The primary concerns were that telephone companies would not have sufficient notice to change their rates, and that OPUC would be depleting the balance too soon.

**PROPOSED COMMISSION MOTION:**

Staff recommends that the Commissioners adopt the new RSPF surcharge rate of \$0.10 per subscriber line, to begin on January 1, 2005.

RSPF