

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1288

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
VCI COMPANY f/k/a STAN EFFERDING)
and STANLEY JOHNSON, dba VILAIRE,)
and VCI COMPANY, a Washington)
corporation,)
)
Defendants.)

ORDER

DISPOSITION: DEFENDANTS IN DEFAULT;
ORDER TO PAY \$203,391.97

Background

In 2003, Stan Efferding and Stanley Johnson registered to do business in the State of Oregon under the assumed business name Vilaire. Later that year, the Public Utility Commission of Oregon (Commission) granted the petition of Stan Efferding, dba Vilaire, for designation as a federal and state Eligible Telecommunications Carrier (ETC) throughout the Oregon service territory of Qwest Corporation (Qwest). In 2004, the Commission granted Stan Efferding’s request to change the name of the phone company from Stan Efferding, dba Vilaire, to VCI Company. As an ETC, VCI Company, f/k/a Stan Efferding, dba Vilaire, was entitled to participate in the Oregon Telephone Assistance Program (OTAP).

OTAP is designed to provide reduced rates for an ETC’s basic service to qualifying low income customers. OAR 860-033-0010. A qualifying customer for OTAP benefits pays a reduced fee for monthly service. OAR 860-033-0035. The ETC who provides the discounted service to eligible customers may seek reimbursement from the Commission for discounted services provided to qualifying customers. The Commission administers an OTAP fund supported by a monthly surcharge paid by all telecommunications customers in the state. OAR 860-033-0010.

On December 5, 2006, the Commission opened an investigation to examine the OTAP billings revenue and remittance reporting of VCI Company f/k/a Stan Efferding and Stanley Johnson, dba Vilaire (Defendants). The investigation was prompted by Commission audits that cast doubt on the accuracy of OTAP reimbursements to Defendants for their reported customers. For example, the audits

showed multiple instances where Defendants had submitted: (1) duplicate billings for the same customer; (2) billings for customers served by other carriers; and (3) billings for customers with discontinued service.

Complaint

On September 10, 2007, the Commission Staff (Staff) filed a Complaint alleging that Defendants had improperly requested and received reimbursement for a large number of customers that did not have service with Defendants. A copy of the Complaint is attached as Appendix A and incorporated by reference.

Based on a systematic sampling method of Defendants' billings from June 2004 through November 2006, Staff alleged that Defendants were paid \$203,391.97 for customer billings for which Defendants had no line for the customer. Staff supported all allegations contained in the Complaint with written testimony and exhibits, premarked as Exhibits 100 to 115.

The Complaint requested that Defendants be ordered to pay to the Commission an overpayment in the amount of \$203,391.97. The Complaint directed the Defendants to file a verified answer within ten days from the date the Complaint was mailed pursuant to ORS 756.512(1). The Complaint was mailed to Defendants on September 10, 2007. Defendants did not file an answer, and the time for doing so has expired.

OPINION

By failing to provide a timely answer to the Complaint, Defendants are in default. The Commission's rule governing default orders is found at OAR 860-013-0055, which provides:

(1) If a party fails to plead or otherwise appear within the time specified in OAR 860-013-0050, the party shall be in default. All material allegations of the complaint shall be deemed admitted and hearing waived. The proceeding may be disposed of without further notice to the defaulting party.

(2) A defaulted party may file a motion to set aside a final order of default as follows:

(a) A motion to set aside a final order upon default must be filed within 60 days from the date of service of the order. The motion must be served as provided in OAR 860-013-0070. The Commission may grant the motion if the moving party shows the default resulted from mistake, inadvertence, surprise, excusable neglect, or other good cause.

(b) A motion made under this rule must be accompanied by a pleading or motion which contains an assertion of a claim or a defense.

(c) The filing of a motion under this rule does not excuse the defaulted party from complying with the order nor is the enforcement of the order stayed or postponed, except upon Commission order.

Pursuant to OAR 860-013-0055, the allegations of the Complaint are deemed admitted. Exhibits 100 to 115 are admitted without objection. Based on those allegations and the exhibits in evidence, we make the following:

Findings of Fact

1. The Defendants were at all relevant times acting as an eligible telecommunications carrier participating in the OTAP under OAR 860-033-0010 to 860-033-0047.

2. Under OAR 860-033-0010 to 860-033-0047, Defendants were entitled to reimbursement for discounted services provided to qualifying customers using its services.

3. Defendants billed the Commission and received reimbursement for a large number of customers that did not have service with Defendants.

4. From June 2004 through November 2006, Defendants obtained payments totaling \$203,391.97 for billing reimbursements for customers that did not have service with Defendants.

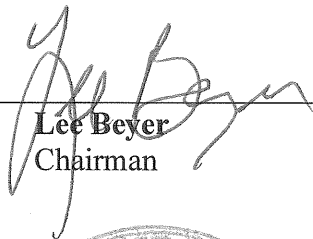
Conclusion of Law

Defendants are liable to the Commission in the amount of \$203,391.97 for improperly obtained OTAP reimbursements for customers that did not have service with Defendants.

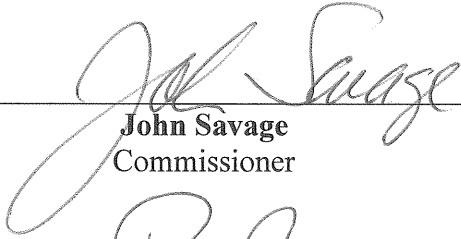
ORDER

IT IS ORDERED that Defendants VCI Company f/k/a Stan Efferding and Stanley Johnson, dba Vilaire, must pay the Public Utility Commission of Oregon, within 30 days from the effective date of this order, the sum of \$203,391.97.


Made, entered, and effective SEP 26 2007



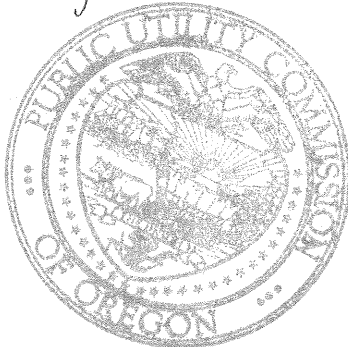
Lee Beyer
Chairman



John Savage
Commissioner



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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 to 183.484.

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VCI COMPANY f/k/a STAN EFFERDING
and STANLEY JOHNSON, dba VILAIRE,
and VCI COMPANY, a Washington
corporation

Defendants.

COMPLAINT

1.

The Public Utility Commission of Oregon (PUC), pursuant to ORS 756.515, opened an investigation to examine the Oregon Telephone Assistance Program (OTAP) billings revenue and remittance reporting of Defendants VCI Company f/k/a Stan Efferding and Stanley Johnson, dba Vilaire (Defendants) to determine the accuracy of OTAP reimbursements to Defendants for their reported customers. The investigation was prompted by PUC audits of Defendants that found multiple instances of duplicate billings by Defendants for the same customer, multiple instances of Defendants billing for customers served by other carriers, and multiple instances of Defendants billing for customers with discontinued service.

2.

The investigation concluded that Defendants billed the Commission and received reimbursement for a large number of customers that did not have service with Defendants. Based on a random sample of Defendants' billings from June 2004 through November 2006, Defendants were paid \$203,391.97 for customer billings for which Defendants had no line for the customer.

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3.

This complaint is filed on the Commission's own initiative pursuant to ORS 756.500 for the purpose of recovering overpayments made to Defendants under OAR 860-033-0045. The Commission maintains its office at 550 Capitol Street NE, Suite 215, Salem, Oregon 97301-2551.

4.

On May 22, 2003, Defendant Stan Efferding and Defendant Stanley Johnson registered to do business in the State of Oregon under the assumed business name Vilaire.

5.

On December 17, 2003, the Commission granted the petition of Defendant Stan Efferding, dba Vilaire for designation as a federal and state Eligible Telecommunications Carrier (ETC) throughout the Oregon service area of Qwest Corporation (Qwest). Granting the petition resulted in Stan Efferding, dba Vilaire being designated as a federal Lifeline/LinkUp program. Granting the petition also resulted in Stan Efferding, dba Vilaire being designated as a state DTC authorized to participate in OTAP.

6.

On June 29, 2004, Defendant Stan Efferding requested that the Commission change the name of the phone company in its records from Stan Efferding, dba Vilaire to VCI Company. On July 2, 2004, the Commission changed the name of the phone company to VCI Company as requested.

7.

The Defendant VCI Company is a foreign business corporation that was incorporated in the State of Washington. VCI Company registered to do business in the State of Oregon on December 4, 2003.

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8.

The Defendants were at all relevant times acting as an eligible telecommunications carrier participating in the OTAP under OAR 860-033-0010 to 860-033-0047.

9.

ORS 756.040 provides, in relevant part, that

(1) * * * the commission shall represent the customers of any public utility or telecommunications utility and the public generally in all controversies respecting rates, valuations, service and all matters of which the commission has jurisdiction. In respect thereof the commission shall make use of the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.

* * * * *

(2) The commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

ORS 756.070 provides that,

The Public Utility Commission may inquire into the management of the business of all public utilities and telecommunications utilities and shall keep informed as to the manner and method in which they are conducted and has the right to obtain from any public utility or telecommunications utility all necessary information to enable the commission to perform duties.

ORS 756.075 provides, in relevant part,

(2) The commission or authorized representatives shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any public utility or telecommunications utility and to examine under oath any officer, agent or employee of such public utility or telecommunications utility in relation to its business and affairs.

OAR 860-033-0045 provides, in relevant part,

(1) Each eligible telecommunications provider shall be compensated from the Residential Service Protection Fund for specific costs incurred as a consequence of participating in OTAP.* * *:

(a) Each eligible telecommunications provider will be compensated for benefit costs. Compensation will equal the revenue the provider foregoes by providing local service to qualified low-income customers at a reduced rate. The telecommunications provider's invoices shall indicate the number of qualified customers who received the OTAP benefit during a specified period and the amount of revenue foregone during the same period;

10.

WHEREFORE, the Commission directs the defendants to file a verified answer to this complaint within ten (10) days from the date this complaint is mailed to the defendants. If no verified answer or other written appearance raising a question of fact or law, or requesting a hearing, is filed with the Commission at 550 Capitol Street NE, Suite 215, Salem, Oregon 97301-2551, within the 10-day period, the allegations of the complaint shall be deemed admitted, and an order shall be entered ordering any defendant that does not answer or appear to pay the overpayment in the amount of \$203,391.97.

DATED this 10th day of September 2007.

Respectfully submitted,

HARDY MYERS
Attorney General



David B. Hatton, OSB #75151
Assistant Attorney General
Of Attorneys for Staff of the Public
Utility Commission of Oregon