

ORDER NO. 11 330

ENTERED AUG 25 2011

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1517

In the Matter of

THOMSON REUTERS,  
On Behalf of  
ALLIED WIRELESS  
COMMUNICATIONS CORPORATION

ORDER

Request for Waiver of OAR 860-033-0006.

**DISPOSITION: APPLICATION APPROVED**

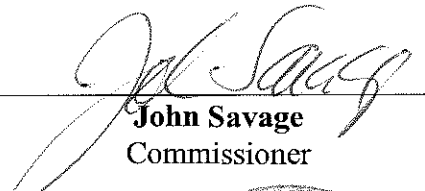
On July 22, 2011, Thomson Reuters, on behalf of Allied Wireless Communications Corporation (Allied) filed a request with the Public Utility Commission of Oregon (Commission) to waive the assessed late report fee, the late penalty, and the interest on the unpaid surcharge fees for Residential Service Protection Fund (RSPF) surcharge reports and remittances submitted to the Commission after the deadline in 2010. A full description of the filing, its procedural history, and Staff's recommendation are contained in the Staff Report, attached as Appendix A and incorporated by reference.

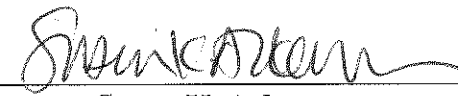
At its Public Meeting on August 23, 2011, the Commission adopted Staff's recommendations to waive the late reporting fee, late payment penalty and interest charges that were assessed to Allied.

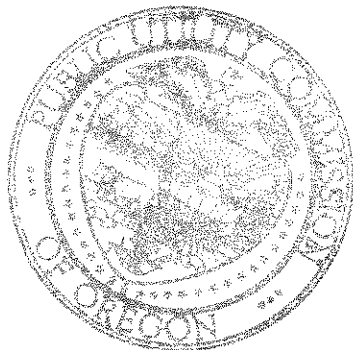
**ORDER**

IT IS ORDERED that the request of Thomson Reuters, on behalf of Allied Wireless Communications Corporation, for waiver of RSPF late reporting fee, late payment penalty and interest charges assessed is allowed effective August 23, 2011.

Made, entered, and effective AUG 25 2011.

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Susan K. Ackerman**  
Commissioner



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ITEM NO. CA3

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 23, 2011**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  August 23, 2011

DATE: July 26, 2011

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Rick Willis  and David Poston 

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND (RSPF):  
(Docket No. UM 1517) Thomson Reuters Request for Waiver of Oregon Administrative Rule (OAR) 860-033-0006(6), 860-033-0006(7) and 860-033-0006(8) on behalf of Allied Wireless Communications Corporation.

**STAFF RECOMMENDATION:**

Staff recommends the Commission, as authorized by OAR 860-033-0006(9), waive the assessed RSPF late report fee, the late payment penalty and the interest on the unpaid surcharge fees to Allied Wireless, effective August 23, 2011.<sup>1</sup>

**DISCUSSION:**

<sup>1</sup> The 2009-2011 and 2011-2013 Legislature approved funding for the Commission to create a Compliance Specialist position to ensure that all telecommunications providers and all cellular, wireless and other radio common carriers accurately collect, report and remit all RSPF surcharges to which the State is entitled pursuant to chapter 290, Oregon Laws 1987. Since the position was filled in December 2009, the Compliance Specialist, in accordance with OAR 860-033-0008, conducted an extensive audit of all telecommunications providers' and all cellular, wireless and other radio common carriers' RSPF surcharge remittance reports that were submitted no later than three years after the due date. In addition, the Compliance Specialist monitors all companies' ongoing compliance. Thomson Reuters, on behalf of Allied Wireless, is one of five companies that filed a waiver request in response to the Compliance Specialist's findings. See RESIDENTIAL SERVICE PROTECTION FUND (RSPF): (Docket No. UM 1517) Ztar Mobile, Inc. Request for Waiver of Oregon Administrative Rule (OAR) 860-033-0006(6), 860-033-0006(7) and 860-033-0006(8), RESIDENTIAL SERVICE PROTECTION FUND (RSPF): (Docket No. UM 1517) American Fiber Network, Inc. Request for Waiver of Oregon Administrative Rule (OAR) 860-033-0006(6), 860-033-0006(7) and 860-033-0006(8), RESIDENTIAL SERVICE PROTECTION FUND (RSPF): (Docket No. UM 1517) ATL Communications, Inc. Request for Waiver of Oregon Administrative Rule (OAR) 860-033-0006(6), 860-033-0006(7) and 860-033-0006(8), RESIDENTIAL SERVICE PROTECTION FUND (RSPF): (Docket No. UM 1517) United Telephone Company of the Northwest f.k.a. Embarq d.b.a. CenturyLink Request for Waiver of Oregon Administrative Rule (OAR) 860-033-0006(6), 860-033-0006(7) and 860-033-0006(8). Therefore, for consistency purposes, Staff adopted the approach of accepting payment for the first infraction if the telecommunications provider or cellular, wireless or radio common carrier provided evidence showing that it submitted the RSPF Remittance Report and surcharge fees late due to circumstances beyond its control. Thomson Reuters on behalf of Allied Wireless Communications Corporation seeks a waiver for its first and only infraction (emphasis added).

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Pursuant to OAR 860-033-0006(4), "Each telecommunications provider must submit to the Commission the RSPF Remittance Report and surcharge fees on or before the 21<sup>st</sup> calendar day after the close of each month or quarter..." On March 11, 2011, Staff notified Thomson Reuters, the entity responsible for filing the RSPF Remittance Report and surcharge fees on behalf of Allied Wireless, via electronic mail that it had not submitted its RSPF Remittance Report and surcharge fees for the fourth quarter 2010. Therefore, Thomson Reuters filed the fourth quarter 2010 RSPF Remittance Report, and remitted the surcharge fees to the Commission on May 3, 2011. Consequently, Staff assessed a late report fee, late payment penalty and an interest charge for a total of \$113.32 in accordance with OAR 860-001-0050. Specific amounts for each assessed charge are not included in order to protect the confidentiality of Allied Wireless' business trade secrets.

Staff issued a notice on May 4, 2011, requesting payment from Thomson Reuters by May 19, 2011, for noncompliance with OAR 860-033-0006(4). After Thomson Reuters did not respond to the May 4, 2011, notice, the Commission issued a Notice of Proposed Assessment to Allied Wireless on June 7, 2011, for failure to meet the requirements outlined in OAR 860-033-0006(4). Allied Wireless did not respond to the Notice of Proposed Assessment; thus, on July 8, 2011, the Commission ordered that \$113.32 is assessed against Allied Wireless. See Order No. 11-257.

Pursuant to OAR 860-033-0006(9), "...The Commission may waive the late report fee, the late payment fees and the interest on the unpaid surcharge fees, or any combination thereof, if the telecommunications provider files a written waiver request and provides evidence showing that the telecommunications provider submitted the Remittance Report and surcharge fees late due to circumstances beyond its control." Thomson Reuters rendered a letter on July 22, 2011, requesting abatement of the assessed charges for erroneously filing the RSPF Remittance Report and surcharge fees to the Oregon Department of Revenue Enhanced 9-1-1 Division. See Attachment A. Thomson Reuters explained that it was punctual in mailing the RSPF Remittance Report and corresponding payment despite delivering it to the wrong governmental agency. The Oregon Department of Revenue Enhanced 9-1-1 Division issued a refund check to Allied Wireless for the RSPF surcharge fees on February 7, 2011. However, Thomson Reuters was not aware of the refund when Staff initiated contact on March 11, 2011, in an effort to obtain Allied Wireless' RSPF Remittance Report and surcharge fees for the fourth quarter 2010, until further investigation.

The Department of Revenue Enhanced 9-1-1 Division confirmed Thomson Reuters' claims. See Attachment B. As a result, Staff supports Thomson Reuters request for abatement or waiver of the RSPF late report fee, late payment penalty and interest charge because it provided evidence demonstrating that its delinquent fourth quarter

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2010 filing was attributed to circumstances beyond its control. In addition, Thomson Reuters, on behalf of Allied Wireless, has demonstrated compliance for all past and current filings and remittances in a timely and accurate fashion.

**PROPOSED COMMISSION MOTION:**

The Commission waive the RSPF late report fee, the late payment penalty and the interest on the unpaid surcharge fees that was assessed to Allied Wireless in accordance with OAR 860-033-0006(9), effective August 23, 2011.

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July 22, 2011

Public Utility Commission of Oregon  
P.O. Box 2153  
Salem, OR 97308-2153

*Allied Wireless Communications*  
**ID #: 270765181**  
**Liability Period: 4<sup>th</sup> quarter 2010**  
**Tax Type: Public Utilities Commission (RSPF)**  
**Request for Abatement of Penalty and Interest**

This letter is a request for waiver of penalty and interest assessed by the OR Public Utility Commission on the above listed account for 4<sup>th</sup> quarter 2010 period.

Thomson Reuters is in the business of filing tax returns and remitting taxes on behalf of our clients and we were responsible for the remittance of returns and payments to the OR Public Utility Commission for the period listed above. Below is a brief explanation of our request for abatement of penalty and interest.

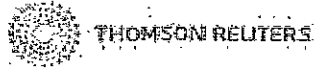
The return was remitted with the payment timely; unfortunately, the check was cashed by Linda Rodgers of the Oregon Department of Revenue E911 division. Then Ms Rodgers sent an Oregon Department of Revenue check to our client Allied Wireless Communications corporate address on 02/07/11. On March 11, 2011, I received a correspondence from Ms Kathy Shepherd that the return and check was missing. After further research I discovered that the client had received the check from Ms Rodgers and then Thomson immediately reissued a new check and return for the 4<sup>th</sup> quarter 2010.

There was never a willful neglect or intent not to comply with OR mandates. Please note by reviewing the history on the account all other payments and all return filings have been made in a timely and accurate fashion and it was never our intent not to resubmit the missing payment.

We believe that the above facts fully establish the necessary criteria for the abatement of the assessed penalties and interest. Therefore, we respectfully request that you review this letter and render a favorable determination of abatement of the penalty and interest in connection with taxes for the period due to reasonable cause based on the facts stated above.

We sincerely appreciate your assistance in this matter and your consideration of our request for further review of the waiver of the related assessment. If you need further information, we would like to speak with you regarding the matter. I can be reached at 770-956-7525 x 1347

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During your review, we ask that any collection activity related to the assessments be placed on hold until you have had the opportunity to come to a final resolution. Once again, if you require any further assistance please do not hesitate to contact me.

Respectfully submitted,

*Dionne Maddox*

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