

ORDER NO. 12 306

ENTERED AUG 08 2012

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of

KPMG LLP on behalf of
RURAL CELLULAR CORPORATION

Request for Waiver of OAR 860-033-0006.
(UM 1517)

And

In the Matter of RURAL CELLULAR
CORPORATION (ID #8562) Assessment of
RSPF Late Fees/Penalties/Interest. (SA 48)

ORDER

**DISPOSITION: APPLICATION APPROVED; ORDER NO. 12-240
RESCINDED**

On June 29, 2012, KPMG LLP, on behalf of Rural Cellular Corporation, filed a request to waive the assessed late report fees for the Residential Service Protection Fund (RSPF) surcharge reports and remittances submitted to the Commission after the deadline for the March 2012 and April 2012 Remittance Reports. On the same day, the Commission entered Order No. 12-240 assessing a \$100 for the late filing of the March 2012 report. Details of the circumstances and Staff's recommendation to the Commission are found in the Staff Report attached as Appendix A.

At its Public Meeting on July 31, 2012, the Commission adopted Staff's recommendation in this matter to waive the late report assessments. Therefore, it is also necessary to rescind the Order No. 12-240.

ORDER

IT IS ORDERED that:

1. KPMG LLP's Request for Waiver of OAR 860-033-0006 on behalf of Rural Cellular Corporation is approved; and

2. Order No. 12-240 is rescinded.

Made, entered, and effective AUG 08 2012




Susan K. Ackerman
Chair





John Savage
Commissioner



Stephen M. Bloom
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.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 31, 2012**

REGULAR _____ CONSENT X EFFECTIVE DATE July 31, 2012

DATE: July 24, 2012

TO: Public Utility Commission

FROM: Jon Cray *Jc*

THROUGH: Michael Dougherty and David Poston *MD*

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND (RSPF):
(Docket No. UM 1517) KPMG LLP Request for Waiver of Oregon
Administrative Rule (OAR) 860-033-0006(9).

STAFF RECOMMENDATION:

Staff recommends the Commission, as authorized by OAR 860-033-0006(10), waive the assessed RSPF late report fee to Rural Cellular Corporation, effective July 31, 2012.

DISCUSSION:

KPMG LLP, a government tax compliance firm responsible for filing the RSPF Remittance Report on behalf of Rural Cellular Corporation, violated OAR 860-033-0006(5), which states "The Remittance Report and surcharges are due to the Commission on or before the 21st calendar day after the close of each month. . . ." KPMG LLP filed the Rural Cellular Corporation's March 2012 and April 2012 Remittance Report on May 29, 2012. Consequently, Staff assessed a late report fee in the amount of \$100.00 for each delinquent Remittance Report to Rural Cellular Corporation in accordance with OAR 860-001-0050.

On May 2, 2012, and May 24, 2012, Staff issued a letter to Rural Cellular Corporation for the respective March 2012 and April 2012 Remittance Report seeking payment in accordance with OAR 860-033-0006(9), which states that "If a telecommunications provider or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay a late report fee. . . ."

UM 1517
July 24, 2012
Page 2

The Commission issued a Notice of Proposed Assessment to Rural Cellular Corporation on May 21, 2012, and June 14, 2012, for failing to respond to Staff's letters demanding payment for the March 2012 and April 2012 late reporting fees. Rural Cellular Corporation did not respond to the May 21, 2012, Notice of Proposed Assessment; thus, on June 28, 2012, the Commission ordered that \$100.00 is assessed against Rural Cellular Corporation for the delinquent March 2012 Remittance Report. See Order No. 12-240.

On June 29, 2012, KPMG LLP filed a written waiver request to the Commission for March 2012 and April 2012, respectively. KPMG explained the administrative error that contributed to the delayed submission of the RSPF Remittance Reports. See Attachment A. The Department of Revenue 9-1-1 Emergency Communications Tax Division issued a letter to KPMG LLP to cease "zero" filings. In response, KPMG LLP claims it stopped filing the RSPF Remittance Report as opposed to the 9-1-1 Emergency Communications Tax return. Subsequently, the Department of Revenue 9-1-1 Emergency Communications Tax Division Program Coordinator contacted KPMG on May 9, 2012, to stop filing "zero" returns on behalf of Rural Cellular Corporation. This prompted KPMG LLP to apply corrective action by filing the RSPF Remittance Report for March 2012 and April 2012 on May 29, 2012.

Pursuant to OAR 860-033-0006(10), "...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." Staff supports KPMG LLP's request on behalf of Rural Cellular Corporation for abatement of the RSPF late report fee for both March 2012 and April 2012. The Department of Revenue 9-1-1 Emergency Communications Tax Division corroborated KPMG LLP's claims and Commission records show that Rural Cellular Corporation has demonstrated consistency compliance in filing the Remittance Report since it began filing in January 2011.

PROPOSED COMMISSION MOTION:

The Commission, in accordance with OAR 860-033-0006(10), waive the RSPF late reporting fees that were assessed to Rural Cellular Corporation in the total amount of \$200.00, effective July 31, 2012.

UM 1517

June 29, 2012

Public Utility Commission, Attn: Filing Center
550 Capitol Street NE #215
P.O. Box 2148
Salem, OR 97308

RE: Taxpayer: Rural Cellular Corporation
ID#: 8562
FEIN: 411693295
Period: March 2012

To Whom It May Concern:

This waiver request is in response to the Notice of Proposed Assessment in the matter of Rural Cellular Corporation. We kindly request that all penalties assessed for March 2012 filing period be abated based on the below.

We were contacted by Linda Rodgers, Program Coordinator, on 3/13/12 instructing us to no longer remit 'zero due' tax returns as Rural Cellular Corporation was no longer subject to the Oregon E-911 Service tax. After receiving this letter, we mistakenly stopped remitting the RSPF surcharge remittance instead of the E-911 Service tax for the March due April 2012 filing period. Our Tax Associate at the time got mixed up with these returns as both have been filing 'zero due' tax returns since inception. Once we received an additional phone call from Mrs. Rodgers on 5/9/12, we took immediate action and filed the missing 'zero due' returns for the RSPF surcharge remittance. We submitted our returns late due to this simple administrative error, causing a late filing penalty. We sincerely apologize for this oversight.

Please take under consideration that we have a history of filing timely and accurate returns. With the exception of the above referenced period, we have always filed in accordance with the rules and regulations of the Public Utility Commission of Oregon. Since inception, we have had no prior issues with timely filing as our tax history shows we have filed all returns accordingly. We believe that these facts establish the necessary criteria for the abatement of all penalties.

We thank you in advance for reviewing this abatement letter and hope that you grant a favorable determination. In addition, we ask that you please hold all collection activity until this matter can be resolved.

Respectfully,



Saksit Chreunsouk, Tax Technician
D: 770-240-8745
schareunsouk@kpmg.com

June 29, 2012

Public Utility Commission, Attn: Filing Center
550 Capitol Street NE #215
P.O. Box 2148
Salem, OR 97308

RE: Taxpayer: Rural Cellular Corporation
ID#: 8562
FEIN: 411693295
Period: April 2012

To Whom It May Concern:

This waiver request is in response to the Notice of Proposed Assessment in the matter of Rural Cellular Corporation. We kindly request that all penalties assessed for April 2012 filing period be abated based on the below.

We were contacted by Linda Rodgers, Program Coordinator, on 3/13/12 instructing us to no longer remit 'zero due' tax returns as Rural Cellular Corporation was no longer subject to the Oregon E-911 Service tax. After receiving this letter, we mistakenly stopped remitting the RSPF surcharge remittance instead of the E-911 Service tax for the April due May 2012 filing period. Our Tax Associate at the time got mixed up with these returns as both have been filing 'zero due' tax returns since inception. Once we received an additional phone call from Mrs. Rodgers on 5/9/12, we took immediate action and filed the missing 'zero due' returns for the RSPF surcharge remittance. We submitted our returns late due to this simple administrative error, causing a late filing penalty. We sincerely apologize for this oversight.

Please take under consideration that we have a history of filing timely and accurate returns. With the exception of the above referenced period, we have always filed in accordance with the rules and regulations of the Public Utility Commission of Oregon. Since inception, we have had no prior issues with timely filing as our tax history shows we have filed all returns accordingly. We believe that these facts establish the necessary criteria for the abatement of all penalties.

We thank you in advance for reviewing this abatement letter and hope that you grant a favorable determination. In addition, we ask that you please hold all collection activity until this matter can be resolved.

Respectfully,



Saksit Chreunsouk, Tax Technician
D: 770-240-8745
schareunsouk@kpmg.com