

ORDER NO. 13 083

ENTERED MAR 13 2013

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1517

In the Matter of

PRIME TIME VENTURES LLC, dba
INFOSTRUCTURE.NET,

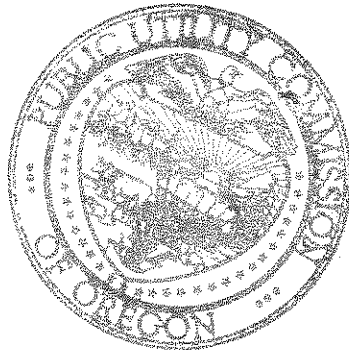
Request for Waiver of OAR 860-033-0006(7),
860-033-0006(8) and 860-033-0006(9).

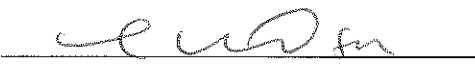
ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its Public Meeting on March 12, 2013, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:




Becky L. Beier
Commission Secretary

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: March 12, 2013

REGULAR _____ CONSENT X EFFECTIVE DATE March 12, 2013

DATE: March 5, 2013

TO: Public Utility Commission

FROM:  Kathy Shepherd

THROUGH: Michael Dougherty  and Jon Cray 

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND (RSPF):
(Docket No. UM 1517) Prime Time Ventures LLC Request for Waiver of
Oregon Administrative Rule (OAR) 860-033-0006(7), 860-033-0006(8)
and 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, the late payment penalty, and the interest on the late surcharge fees to Prime Time Ventures LLC, effective March 12, 2013.

DISCUSSION:

Pursuant to OAR 860-033-0006(5), each telecommunications provider must submit to the Commission the RSPF Remittance Report and surcharge fees "on or before the 21st calendar day after the close of each month ..." Prime Time Ventures LLC filed the December 2012 RSPF Surcharge Remittance Form on January 24, 2013, and remitted the surcharge fees to the Commission on February 21, 2013. Consequently, they were assessed a late report fee, late payment penalty, and an interest charge for a total of \$132.91 in accordance with OAR 860-001-0050. Specific amounts for each assessed charge are not included in order to protect the confidentiality of Prime Time Ventures LLC's business trade secrets.

Staff issued a notice on January 28, 2013, requesting payment from Prime Time Ventures LLC by February 12, 2013, for noncompliance with OAR 860-033-0006(5). The Commission then issued a Notice of Proposed Assessment to Prime Time Ventures LLC on February 14, 2013, for failure to meet the requirements outlined in OAR 860-033-0006(5).

March 5, 2013
Page 2

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." On February 21, 2013, Prime Time Ventures LLC filed a request for waiver of the assessed charges for late filing of the RSPF Surcharge Remittance Form and surcharge fees. See Attachment A. A Prime Time Ventures LLC representative explained that on January 18, 2013, she emailed RSPF staff (who were out of the office January 18 and 21, 2013, due to mandated furlough and holiday schedules), stating that they had discovered a billing system error and requesting an extension of the monthly filing deadline while they fixed their billing reports to ensure accurate filing. The RSPF Online System subsequently and automatically assessed the standard late fee, penalty and interest charges on the late filing.

Prime Time Ventures LLC's billing system erroneously included Direct Inward Dial (DID) phone numbers as lines in its reports even though the surcharge was not and should not be collected on these numbers. Prime Time Ventures LLC has since corrected the error in its billing system to generate accurate reports.

Staff supports Prime Time Ventures LLC's request for waiver of the RSPF late report fee, late payment penalty, and interest charge because it provided evidence demonstrating that its late December 2012 filing was attributed to circumstances beyond its control. In addition, Prime Time Ventures LLC has demonstrated compliance for all past and current filings and remittances in a timely fashion.

PROPOSED COMMISSION MOTION:

The Commission waive the RSPF late report fee, the late payment penalty and the interest on the late surcharge fees that was assessed to Prime Time Ventures LLC in accordance with OAR 860-033-0006(10), effective March 12, 2013.

UM 1517



ORDER NO. 13 083
InfoStructure.net

February 7, 2013

Oregon Public Utility Commission
RSPF
550 Capitol St., NE, Ste 215
PO Box 2153
Salem, OR 97308-2153

RE: RSPF – Company ID# OR8143

To whom it may concern:

Please note on Jan 18, 2013 we sent an email to Kathy Shepherd and Jon Cray of the Oregon RSPF department. Stating we had discovered a huge error in our billing system that dated back years. We asked for information on how far back we could process amendments and if it was possible to get an extension on this current (Dec 2012) months filing while we tried to fix our billing reports. Though, neither of them were available to respond due to furlough days and we got automated mail responses from their offices in their absence (enclosed).

We would like to request now an abatement of all penalties and fines for such late filing. We would like to respectfully point out we have filed in a timely manner every month for years with no late pays. In good faith we would hope for these P&I charges to be waived.

Thank You,

Kitty Whitt
Controller
kwhitt@infostructure.net

541.773.5000 Office
541.842.8213 Direct
541.732.4857 Fax
288 S Pacific Hwy
Talent, OR 97540

ENTERED
02/07/13
mailed

RECEIVED
FEB 22 2013
PUC
Utility Program

ORDER NO. 13 083



Shipment Receipt

Address Information

Ship to:	Ship from:
RSPF Department	Kitty Whitt
Oregon PUC	Infostructure
550 Capitol St., NE, Ste	288 S. Pacific Hwy
215	
SALEM, OR	Talent, OR
97308	97540
US	US
541-842-8213	5418428213

Shipment Information:

Tracking no.: 794706771951
 Ship date: 02/07/2013
 Estimated shipping charges: 14.69

Package Information

Service type: FedEx Express Saver
 Package type: FedEx Envelope
 Number of packages: 1
 Total weight: 1 LBS
 Declared Value: 0.00 USD
 Special Services:
 Pickup/Drop-off: pickup confirmation number:MFRA16

Billing Information:

Bill transportation to: InfoStructure-831
 Your reference: RSPF Tax Abatement P&I Letter
 P.O. no.:
 Invoice no.:
 Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note


FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits. Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheets for details on how shipping charges are calculated.

ORDER NO. 13 083

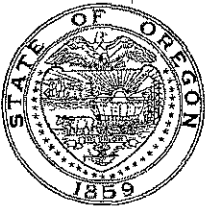
JoA Craig
SDS-373-1700

Hi Kitty,

We received your 2/7/2013 letter requesting a waiver of the late fees/P&I for the late December 2012 filing. This NOTICE is the official document from which you can file a waiver request (the letter we sent previously is just a courtesy letter). I'm sorry, but I have to have you follow the instructions on the back of the NOTICE to file. You can use the same language from your 2/7 letter, but it does have to be filed through the official process. Sorry for the inconvenience!

Thanks! ~Kathy 

Kathy Shepherd
RSPF Compliance Specialist
Oregon Public Utility Commission
Residential Service Protection Fund



ORDER NO. **13 083**
Oregon Public Utility Commission
Residential Service Protection Fund
550 Capitol St NE Ste 215
Mailing Address: PO Box 2153
Salem, OR 97308-2153
www.rspf.org

January 28, 2013

Kitty Whitt

Company ID: #OR8143

PRIME TIME VENTURES LLC
288 S PACIFIC HWY
TALENT OR 97540-6649

RE: Late RSPF Surcharge Remittance – December 2012

PRIME TIME VENTURES LLC is late in paying its RSPF surcharge remittance for December 2012. The surcharge remittance payment in the amount of \$352.80 was due on January 22, 2013.

The RSPF surcharge remittance amount owed is past due and subject to a late report fee, late payment penalty, and an interest charge as follows:

- Late report fee: \$100.00
- Late payment penalty: \$31.75 (9% of the amount due not to exceed \$500.00)
- Interest charge: \$0.17 (9% per annum from the original due date up to January 28, 2013)

If you have not already done so, please pay the surcharge remittance amount, the late payment penalty, and the interest charge totaling **\$484.72** online at <http://apps.rspf.org> or by sending payment to the above address by **February 12, 2013**. Failure to pay the remittance surcharge and/or other charges will result in issuance of a NOTICE OF PROPOSED ASSESSMENT, may be a violation of your company's certificate of authority to offer telecommunications service in Oregon, and may be grounds for cancellation of that certificate, if applicable.

If you have questions, contact Kathy Shepherd at kathy.shepherd@state.or.us or 503 378-4927.

Kitty O. Whitt

Subject: FW: OR RSPF #8143

From: Kitty O. Whitt [mailto:kwhitt@infostructure.net]
Sent: Friday, January 18, 2013 2:20 PM
To: 'kathy.shepherd@state.or.us'
Subject: OR RSPF #8143

Hi Kathy,

Upon the completion of some of annual reports we have discovered a big error in our billing system, dating back years. The tax reports it is sending has been including some duplicate information – ie; line counts and I was wondering what the amendment process is and how far back are we allowed to amend? And is it possibly to get an extension on this current filing while we work on the billing system? Now that we have discovered this problem I do not want to file until I am sure about the figures.

And finally can you clarify a few things that have caused us some confusion in the office as a whole.

- 1: Does the RSPF only pertain to residential customers?
- 2: Also does this surcharge only apply to Analogue lines or are VOIP lines to be included in this surcharge?

Thank you, Kitty

Kitty Whitt
Controller of Controlling
kwhitt@infostructure.net

541.773.5000 Office
541.842.8213 Direct
541.732.4857 Fax
288 S Pacific Hwy
Talent, OR 97540



 InfoStructure.net

Kitty O. Whitt

From: SHEPHERD Kathy <kathy.shepherd@state.or.us>
Sent: Friday, January 18, 2013 2:21 PM
To: Kitty O. Whitt
Subject: Out of Office AutoReply: OR RSPF #8143

I am out of the office until Tuesday, January 22. I will get back to you as soon as I can when I return.

If you have an urgent RSPF surcharge matter that can't wait until my return, please contact Jon Cray, RSPF Program Manager, at jon.cray@state.or.us.

Kathy Shepherd, Compliance Specialist
Residential Service Protection Fund
Oregon Public Utility Commission
kathy.shepherd@state.or.us, (503) 378-4927

Kitty O. Whitt

Subject: FW: OR RSPF #8143

From: Kitty O. Whitt [mailto:kwhitt@infostructure.net]
Sent: Friday, January 18, 2013 2:29 PM
To: 'jon.cray@state.or.us'
Subject: FW: OR RSPF #8143

Can you please assist me with the below email in Kathy's absence.

Thank you, Kitty

Kitty Whitt
Controller of Controlling
kwhitt@infostructure.net

541.773.5000 Office
541.842.8213 Direct
541.732.4857 Fax
288 S Pacific Hwy
Talent, OR 97540



From: Kitty O. Whitt [mailto:kwhitt@infostructure.net]
Sent: Friday, January 18, 2013 2:20 PM
To: 'kathy.shepherd@state.or.us'
Subject: OR RSPF #8143

Hi Kathy,

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Thank you, Kitty

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288 S Pacific Hwy
Talent, OR 97540

ORDER NO. 13 083



IS | InfoStructure.net

Kitty O. Whitt

From: CRAY Jon <jon.cray@state.or.us>
Sent: Friday, January 18, 2013 2:29 PM
To: Kitty O. Whitt
Subject: Out of Office AutoReply: OR RSPF #8143

I am out of the office Friday and Monday due to a state-mandated furlough and state observed holiday, respectively. I will respond to your e-mail when I return on January 22nd.

Thanks,
Jon Cray
Program Manager
Residential Service Protection Fund (RSPF)

ORDER NO. 13 083

Issued: 2/14/2013

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

RECEIVED

FEB 26 2013

SA 117

Public Utility Commission of Oregon
Administrative Hearing Division

In the Matter of PRIME TIME VENTURES
LLC
(ID#8143)
Assessment of RSPF Late
Fees/Penalties/Interest

NOTICE OF PROPOSED
ASSESSMENT

The Public Utility Commission of Oregon (Commission) proposes to assess \$486.55 against you for Residential Service Protection Fund (RSPF) surcharge remittance late payment penalties, interest, and late report fees for December 2012.

As a telecommunications provider, you are required to submit monthly RSPF surcharge remittance reports and payments to the Commission. *See* OAR 860-033-0006. More specifically, OAR 860-033-0006(4) requires telecommunications providers to submit monthly surcharge remittance reports and payments to the Commission on or before the 21st calendar day after the close of each month. You failed to meet the requirements set out in OAR 860-033-0006(4) as follows: the December 2012 RSPF Surcharge Remittance Form was filed after the due date, and payment has not yet been received.

Pursuant to OAR 860-033-0006 and OAR 860-001-0050, the Commission proposes to assess against you \$486.55 which includes the following charges: late payment penalties, interest, and late report fee(s) for December 2012. Please note that specific amounts for each assessed charge are not included in order to protect the confidentiality of your underlying records. If you wish to know the specific amount for each assessed charge, please contact Kathy Shepherd at kathy.shepherd@state.or.us, (503) 378-4927.

The Commission will terminate this proceeding if you fulfill your RSPF obligations as stated in this Notice by 5:00 p.m. on 3/14/2013. RSPF forms and instructions are available at <http://www.puc.state.or.us/PUC/telecom/rspf>.

Make your check payable to Oregon Public Utility Commission/RSPF. Mail your payment and a copy of this Notice to: Oregon Public Utility Commission, Residential Service Protection Fund, PO Box 2153, Salem OR 97308-2153. If you have any questions, please contact Kathy Shepherd at kathy.shepherd@state.or.us, (503) 378-4927.

David Poston
for David Poston

David Poston
Administrator
Central Services Division

RIGHT TO A HEARING

You are entitled to a hearing to contest this proposed assessment. If you want a hearing, you must file a written request for hearing with the Commission so that the Commission receives it within 30 days from the date of this Notice. Your request for hearing must specify all the reasons you dispute the facts alleged in this Notice. Instructions for filing a request for hearing can be found at <http://www.puc.state.or.us/PUC/eFiling/fcinstructions.shtml>.

If a request for hearing is not timely filed, your right to a hearing will be considered waived. Further, if you fail to timely request a hearing, or if you withdraw a request for hearing, or fail to appear at a scheduled hearing the Commission may issue a final order by default ordering the surcharge remittance assessment, fees, interest and penalties as stated in this Notice (adjusting for any applicable additional interest accrual). If the Commission issues a final order by default, the Commission designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a prima facie case upon default.

Consent agenda -

For Commission use only:

Batch # _____ Date _____ Released _____
Vendor # _____ MC# _____ Index _____ FCA 31000 TC 190 Entered by _____
Database _____ Write off _____ Audit _____ AR _____