

ORDER NO. 20-463

ENTERED Dec 03 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1180(15)

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Residential Service Protection Fund (RSPF)
Surcharge Rate Review.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on December 1, 2020, 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:



Nolan Moser
Chief Administrative Law Judge



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 Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 1, 2020**

REGULAR _____ CONSENT X EFFECTIVE DATE January 1, 2021

DATE: November 25, 2020

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Michael Dougherty **SIGNED**

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND:
(Docket No. UM 1180(15))
Surcharge Rate Review and Recommendation.

STAFF RECOMMENDATION:

Increase the monthly surcharge rate for the Residential Service Protection Fund (RSPF) to \$0.14 for calendar year 2021.

DISCUSSION:

Issue

Whether the Commission should adjust the current RSPF surcharge rate from \$0.10 to \$0.14.

Applicable Law

Oregon Revised Statute (ORS) 759.685, as amended, allows a monthly surcharge to be assessed on each landline, wireless, or interconnected voice over protocol subscriber who has access to the Oregon Telecommunications Relay Service (OTRS) and the rate may not exceed \$0.35.

The surcharge provides revenue for three telephone assistance programs: Telecommunication Devices Access Program (TDAP), Oregon Telephone Assistance

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Program (OTAP),¹ also known as Oregon Lifeline, and OTRS. Under ORS 759.685(3), the Commission must review the surcharge and the RSPF balance on an annual basis and adjust the surcharge as necessary to ensure the fund has adequate resources, yet does not exceed six months of projected expenses.

Analysis

Background

Staff annually reviews the revenue and expenditures of the previous year and calculates projections for the next year to determine whether the current surcharge rate is sufficient to sustain expenditures and maintain a six-month reserve balance.

On November 7, 2019, the Commission adopted Staff's recommendation to decrease the RSPF surcharge rate from \$0.11 to \$0.10 due to decreased OTAP disbursements. See Order No. 19-390. Staff had identified concerns related to customer usage² of OTAP and Lifeline supported service. As a result, Virgin Mobile USA, L.P.³ de-enrolled a significant number of customers to come into compliance with the regulation.

In the *2016 Lifeline Modernization Order*,⁴ the Federal Communications Commission (FCC) adopted Section 54.403(a)(2)(i) that phases down the federal Lifeline support amount for voice service. The FCC adopted this regulation as part of its efforts to modernize and transition the federal Lifeline program to include broadband internet access service and phase out voice as a supported service. The phase-down schedule commenced last December 1, 2019, when the federal support for voice service was reduced from \$9.25 to \$7.25. The support amount will be further reduced to \$5.25 on December 1, 2020, before it is eliminated altogether on December 1, 2021.

On June 30, 2020, the Commission adopted temporary rules in response to 2019-2020 Oregon Interim Joint Emergency Board allotment of \$3.5 million from the federal Coronavirus Relief Fund. See Docket No. AR 634. The Commission expanded access to affordable telephone (voice) and broadband internet access service for eligible low-income households by enhancing the OTAP subsidy from \$3.50 to \$12.00. The temporary rules are in effect until December 31, 2020.

¹ The OTAP is the state counterpart to the Federal Communication Commission's Lifeline program. The FCC currently provides \$7.25 and \$9.25 for the qualifying low-income customer's voice telephony and broadband internet access service, respectively. The State of Oregon provides a supplemental \$3.50. The maximum combined support an eligible low-income customer can generally receive is \$12.75.

² See 47 C.F.R. § 54.407(2).

³ On March 27, 2020, Sprint notified the Oregon Commission in Docket No. UM 1522 of a name change for Virgin Mobile USA, L.P. to Assurance Wireless USA, L.P. (Assurance Wireless).

⁴ See generally Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (2016) (*2016 Lifeline Modernization Order*).

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Despite Oregon Commission support⁵ of petitions⁶ to suspend the scheduled phase-down of support for voice service, it does not appear that the FCC intends to deviate from the core objective of the *2016 Lifeline Modernization Order*.⁷ However, as proposed in Docket No. AR 635, the \$7.00 OTAP subsidy serves to offset the federal reduction and minimize the financial harm to eligible low-income Oregonians who pay a monthly rate to subscribe to voice service. In addition, the ongoing coronavirus pandemic has accentuated the importance of affordable access to voice and broadband internet access service for low-income households. Therefore, Staff calculated projections using the \$7.00 discount amount to determine the effect on the RSPF surcharge rate. Increasing OTAP enrollment were also factored into Staff's estimates. For instance, the number of OTAP customers enrolled with one provider increased 75 percent from September 2019 to September 2020. The appeal of unlimited wireless voice minutes and data at no charge to the eligible low-income customer made possible by the temporary \$12.00 OTAP subsidy resulted in a 250 percent increase in enrollment for another provider from July 2020 to October 2020.

To ensure that the fund has adequate resources to accommodate the increase in forecasted program expenditures resulting from the \$7.00 OTAP subsidy and rising enrollment, Staff recommends that the Commission adjust the RSPF surcharge from \$0.10 to \$0.14. Staff estimates that the average six-month operating cost will be \$1.3 million and the average RSPF ending balance will be \$3.3 million, which is well within the six-month threshold of projected operating costs.

Below is an overview of the surcharge rate history since the inception of the RSPF.

October 1987 – June 1990	\$0.25
July 1990 – June 1993	\$0.15
July 1993 – August 1994	\$0.16
September 1994 – December 1996	\$0.25
January 1997 – December 1997	\$0.13
January 1998 – December 2001	\$0.10
January 2002 – December 2004	\$0.13

⁵ See Comments of the Oregon Public Utility Commission on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket No. 11-42, et. al. (filed July 31, 2019); See Comments of the Oregon Public Utility Commission on the National Lifeline Association Petition, WC Docket No. 11- 42, et. al. (September 15, 2020).

⁶ See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, et al. (June 27, 2019); See National Lifeline Association Petition for Waiver of Lifeline Mobile Broadband Minimum Service standard and Voice Support Phase-Down, WC Docket No. 11-42 et. al. (August 27, 2020).

⁷ See Lifeline and Link Up Reform and Modernization et. al., Order, DA 20-1358, paras. 21, 22, 23, 24 (November 16, 2020).

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January 2005 – December 2005	\$0.10
January 2006 – January 2007	\$0.08
February 2007 – December 2008	\$0.05
January 2009 – December 2009	\$0.09
January 2010 – December 2013	\$0.12
January 2014 – December 2014	\$0.11
January 2015 – December 2015	\$0.09
January 2016 – December 2017	\$0.07
January 2018 – December 2018	\$0.06
January 2019 – December 2019	\$0.11
January 2020 – December 2020	\$0.10

Conclusion

Staff finds that increasing the surcharge rate to \$0.14 for the calendar year 2021 is necessary to ensure the fund has adequate resources in 2021 while sustaining an ending balance that does not exceed six months of forecasted operating costs.

PROPOSED COMMISSION MOTION:

Approve an increase in the RSPF monthly surcharge rate from \$0.10 to \$0.14, effective January 1, 2021.

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