

ORDER NO. 22-359

ENTERED Oct 06 2022

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1517

In the Matter of

CASCO COMMUNICATIONS, INC.,

Request for Waiver of OAR 860-033-0006(6),  
OAR 860-033-0006 (7), and OAR 860-033-  
0006 (8).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 4, 2022, 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:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

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**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: October 4, 2022**

REGULAR  CONSENT  EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: September 27, 2022

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Michael Dougherty and Melissa Nottingham **SIGNED**

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND:  
(Docket No. UM 1517)  
CASCO Communications, Inc. Request for Waiver of  
OAR 860-033-0006(6), (7), and (8).

**STAFF RECOMMENDATION:**

Staff recommends the Public Utility Commission of Oregon (Commission) approve CASCO Communications, Inc.'s (CASCO Communications) request for waiver of the Residential Service Protection Fund (RSPF) late payment fee, interest, and late report fee.

**DISCUSSION:**

Issue

Whether the Commission should approve CASCO Communications' request for waiver of the RSPF late payment fee, interest, and late report fee under OAR 860-033-0006(6), (7), and (8).

Applicable Law

Pursuant to OAR 860-033-0006(3)(b), "Each interconnected voice over internet protocol service provider must remit the specified RSPF surcharge amount to the Commission for each retail subscriber with access to the telecommunications relay service..." The surcharges and a remittance report are due on or before the twenty-first calendar day after the close of each month. OAR 860-033-0006(5).

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Under OAR 860-033-0006(6), for each billing period that the provider fails to submit the surcharge on or before the due date the provider must pay a late payment fee.

Under OAR 860-033-0006(7), a provider must pay interest in accordance with OAR 860-001-0050 when it fails to submit the surcharge on or before the due date.

Under OAR 860-033-0006(8), if a provider fails to submit a remittance report, it must pay a late report fee.

Pursuant to OAR 860-033-0006(5), "The [RSPF]...surcharges are due to the Commission on or before the 21<sup>st</sup> calendar day after the close of each month...Failure to submit the...surcharges in full on or before the due date results in the assessment of a late payment fee, interest, and late report fee in accordance with OAR 860-033-0006(6), (7), and (8), respectively."

As provided in the second sentence of 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 or the cellular, wireless, or other radio common carrier files a written waiver request and provides evidence showing that the telecommunications provider or the cellular, wireless, or other radio common carrier submitted the Remittance Report and surcharge fees late due to circumstances beyond its control.

## Analysis

### *Background*

After becoming aware in June 2022 that CASCO Communications was providing retail subscribers voice service with access to the Oregon Telecommunications Relay Service, Staff informed the Company of the total amount of unpaid surcharges and associated late payment fees, interest and late report fees.

### *Company Justification*

CASCO Communications submitted a request for waiver of the late payment fee, interest, and late report fee via email, describing the circumstances or factors that affected punctual submission of the RSPF surcharge. First, the Company began to provide voice over internet protocol service to customers on Wednesday, September 1, 2021. CASCO Communications had only been offering broadband internet access service through the Company's Peak Internet brand. Second, an affiliate of CASCO Communications, Conexon, provided multiple regulatory-related

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instructions with itemized, quarterly fees for which the Company was responsible. CASCO Communications explained that instructions pertaining to RSPF surcharge requirements were not listed in the Conexon-provided documents for quarterly fees. After notice of noncompliance from Staff, the Company located the actual email that contained compliance instructions for the RSPF surcharge requirements. Third, CASCO Communications asserted that the global public health threat posed by COVID-19 was cause for confusion. The Company was still navigating the challenges associated with mandated quarantines that affected access to files and systems.

### Conclusion

Staff notes that of all the grounds that CASCO Communications describes in its request for waiver, one appears to be based on inadvertent oversight of an email. Staff does not find the information submitted by the Company on this issue demonstrates good cause for waiver. Staff's recommendation to waive the late payment fee, interest, and late report fee is based on the COVID-19 pandemic and its associated effects on CASCO Communications, and on the steps taken by CASCO Communications to ensure ongoing compliance with RSPF surcharge remittance and reporting requirements, which the Company has consistently demonstrated since June 2022. Also, the Commission has granted similar waiver requests for this reason. See Order Nos. 20-270 and 20-365.

### **PROPOSED COMMISSION MOTION:**

Approve CASCO Communications Inc's request for waiver of the RSPF late payment fee, interest, and late report fee.