

ORDER NO. 24-053

ENTERED Feb 22 2024

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1517

In the Matter of

HOOD RIVER ELECTRIC &  
INTERNET CO-OP,

Request for Waiver of OAR 860-033-  
0006(8), Oregon Residential Service Fund  
Late Fee.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on February 20, 2024, 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.

ITEM NO. CA11

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 20, 2024**

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

**DATE:** January 29, 2024

**TO:** Public Utility Commission

**FROM:** Jon Cray

**THROUGH:** Bryan Conway and Melissa Nottingham **SIGNED**

**SUBJECT:** RESIDENTIAL SERVICE PROTECTION FUND:  
(Docket No. UM 1517)  
Hood River Electric Cooperative Request for Waiver of  
OAR 860-033-0006(8).

**STAFF RECOMMENDATION:**

Staff recommends the Public Utility Commission of Oregon (Commission) approve Hood River Electric Cooperative Inc. dba Hood River Electric & Internet Co-op’s request for waiver of the Residential Service Protection Fund (RSPF) late report fee under OAR 860-033-0006(8).

Pursuant to OAR 860-033-0001(2), Staff recommends that the Commission, on its own motion, issue a waiver of the RSPF late payment fee and interest under OAR 860-033-0006(6) and (7), respectively.

**DISCUSSION:**

Issue

Whether the Commission should approve Hood River Electric & Internet Co-op’s request for waiver of the RSPF late report fee under OAR 860-033-0006(8).

Whether the Commission should, on its own motion, issue a waiver of the RSPF late payment fee and interest under OAR 860-033-0006(6) and (7), respectively, for Hood River Electric & Internet Co-op.

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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.

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.”

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

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.

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

The Commission may waive any of the Chapter 860, Division 33 administrative rules upon a showing of good cause. See OAR 860-033-0001(2). A waiver may be initiated upon the filing of a written request or on the Commission's own motion.

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## Analysis

### *Background*

After becoming aware in September 2023 that Hood River Electric & Internet Co-op 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*

Hood River Electric & Internet Co-op submitted a request for waiver of the report fee via email, describing the circumstances or factors that affected punctual submission of the RSPF surcharge, on October 19, 2023. First, the Company began to provide voice over internet protocol service to customers in October 2021 after having only offered electric services since 1945 and broadband internet access service since the early 2000s. Second, the Company experienced attrition of employees tasked with tax compliance. Training processes for new hires were hindered by the global public health threat posed by COVID-19. Third, the Company did not receive the login credentials to the RSPF online system for the purpose of reporting or remitting surcharges.

## Conclusion

Staff notes that of all the grounds that Hood River Electric & Internet Co-op describes in its request for waiver, one appears to be based on failure to receive RSPF online system login credentials. Staff does not find the information submitted by the Company on this issue demonstrates good cause for waiver; the Company did not provide evidence that the Company had contacted the Commission for login credentials. Staff's recommendation that the Commission grant the Company's request to waive the late report fee as well as the late payment fee and interest on the Commission's own motion, is based on the COVID-19 pandemic and its associated effects on Hood River Electric & Internet Co-op, and on the steps taken by the Company to ensure ongoing compliance with RSPF surcharge remittance and reporting requirements, which the Company has consistently demonstrated since reporting month September 2023. Also, the Commission has granted similar waiver requests for this reason. See Order Nos. 22-359 and 20-365.

## **PROPOSED COMMISSION MOTION:**

Approve Hood River Electric & Internet Co-op's request for waiver of the RSPF late report fee. Pursuant to OAR 860-033-0001(2), issue a waiver of the RSPF late payment fee and interest to Hood River Electric & Internet Co-op.