

ORDER NO. 24-433

ENTERED Nov 27 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1517

In the Matter of

TELE CUBED LLC,

Request for Waiver of OAR 860-033-
0007(6), (7), and (8), Late Filing Charges

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 26, 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:



Alison Lackey
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: November 26, 2024**

REGULAR **CONSENT** _____ **EFFECTIVE DATE** _____ **N/A** _____

DATE: November 1, 2024

TO: Public Utility Commission

FROM: Jon Cray

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

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND (RSPF):
(Docket No. UM 1517)
Tele Cubed LLC Request for Waiver of OAR 860-033-0007(6), (7), and (8).

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) deny Tele Cubed LLC’s (Tele Cubed) request for waiver of the Residential Service Protection Fund (RSPF) late payment fee, interest, and late report fee.

DISCUSSION:

Issue

Whether the Commission should deny Tele Cubed’s request for waiver of the RSPF late payment fee, interest, and late report fee under OAR 860-033-0006(9).

Applicable Rule or Law

Pursuant to OAR 860-033-0006(5):

The [RSPF]...surcharges are due to the Commission on or before the 21st 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.

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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 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.

Analysis

Background

On behalf of Tele Cubed, Thomas Lynch & Associates Telecommunications Attorneys (Counsel) emailed Staff on Friday, September 27, 2024. Counsel raised the question of whether the Commission had any available waiver provisions after the RSPF Online System for reporting and remitting surcharges calculated and alerted the Company to late payment fees, interest, and late report fees for months delinquent.

Counsel, on behalf of Tele Cubed, submitted a request for waiver via email on October 3, 2024, describing the factors that affected timely submission of the Company's RSPF Remittance Report and surcharges. Counsel explained that the third party with which the Company contracted for billing of applicable taxes did not provide assistance nor instructions on remittance. Counsel also stated that the third party neglected to inform Tele Cubed about the types or existence of taxes collected on the Company's behalf.

Staff appreciates Counsel's advice to Tele Cubed to voluntarily disclose the discovery liability in good faith; however, it does not absolve the Company of its legal obligations to report and remit the RSPF surcharge. Whether the third party failed to provide the necessary guidance or identify the taxes collected for compliance is not sufficient grounds for a waiver. Also, Tele Cubed did not provide any other evidence to support its claim that untimely submission of the Remittance Report and surcharge fees were due to circumstances beyond its control in accordance with OAR 860-033-0006(9).

Conclusion

For these reasons, Staff does not recommend approval of Tele Cubed's request for waiver of the RSPF late payment fee, interest, and late report fee. The Company did

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not proffer any evidence that demonstrates late submission of the RSPF Remittance Report and surcharges were due to circumstances beyond its control.

PROPOSED COMMISSION MOTION:

Deny Tele Cubed LLC's request for waiver of the RSPF late payment fee, interest, and late report fee.

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