

ORDER NO. 25-070

ENTERED Feb 19 2025

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1517

In the Matter of

PORTLAND COMPUTER PROS, LLC,
DBA OREGON PHONE SYSTEMS,

Request for Waiver of Late Payment Fees.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on February 18, 2025, 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.

ITEM NO. RA2

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 18, 2025**

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

DATE: January 28, 2025

TO: Public Utility Commission

FROM: Jon Cray

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

SUBJECT: OREGON PUBLIC UTILITY COMMISSION:
Docket No. UM 1517 – *Public Hearing and Commissioner Work Session*
PORTLAND COMPUTER PROS, LLC
Waiver of Late Report Fee under OAR 860-033-0008.

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) deny Portland Computer Pros, LLC dba Oregon Phone Systems' request for waiver of the Residential Service Protection Fund (RSPF) late report fee.

DISCUSSION:

Issue

Whether the Commission should deny Oregon Phone Systems' request for waiver of the RSPF late report fee under OAR 860-033-0006(9).

Applicable Law

Pursuant to Oregon Administrative Rule (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 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 January 7, 2025, CHLSolutions,¹ on behalf of Oregon Phone Systems, submitted a request for waiver of the late report fee, describing factors that affected timely submission of the Company's RSPF Remittance Report and surcharges. CHLSolutions explained that the Company was not informed of the amendment governing the applicability of the RSPF surcharge to interconnected voice over internet protocol service providers in Chapter 860, Division 033 of the OAR. Further, CHLSolutions claims that, at the time the Company commenced operations as a business voice over internet protocol service provider, the Commission stated it lacked regulatory authority over voice over internet protocol service providers. Finally, CHLSolutions states that Oregon Phone Systems assumed that RSPF is a program for residential subscribers since OAR 860-033-0006(3)(a) references Oregon Telephone Assistance Program and Lifeline eligible subscribers, neither of which apply to the Company's business customers.

The 2017 Oregon Legislature enacted Senate Bill 84 into law clarifying that the RSPF surcharge does apply to subscribers of interconnected voice over internet protocol service and directed the Commission to adopt, by rule, the definition of interconnected voice over protocol service consistent with 47 C.F.R. § 9.3.² In addition to adopting the definition, the Commission, on December 29, 2020, in Docket No. AR 635, integrated interconnected voice over internet protocol service providers through amendments to relevant OAR governing the RSPF surcharge in chapter 860, division 033. See Order No. 20-492.

¹ CHLSolutions is a telecommunications regulatory consulting service on which Oregon Systems relies to assist with federal and state regulatory compliance and reporting. See <https://www.alignable.com/henderson-nv/chlsolutions> (last visited January 28, 2025).

² ORS 759.685(1)(b).

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Staff does not recommend that the Commission accept lack of awareness or understanding of the laws that were promulgated on December 30, 2020, as a mitigating factor. Oregon Phone Systems' claim that the Commission indicated it did not regulate voice over internet protocol service providers at the time the Company began to operate as a business voice over internet protocol service provider lacks merit. Oregon Phone Systems does not identify when the Company commenced operations, nor does the Company proffer evidence of the Commission's alleged statement. Regardless, the 2017 Oregon Legislature clearly delegated authority to the Commission to develop and implement a system for assessing the RSPF surcharge against each paying retail subscriber who has interconnected voice over internet protocol service with access to the Oregon Telecommunications Relay Service.

The correct OAR to which the Company is subject is OAR 860-033-0006(3)(b), which prescribes that:

Each interconnected voice over internet protocol service provider must remit the specified RSPF surcharge amount to the Commission for **each retail subscriber** [emphasis added] with access to the telecommunications relay service, including OTAP or Lifeline eligible subscribers.

Oregon Phone Systems' assumption that RSPF is a program that benefits residential customers solely and therefore, the applicability of the RSPF surcharge was limited to residential retail subscribers should not affect the Commission. The basis for the RSPF surcharge is access to the Oregon Telecommunications Relay Service. Each retail subscriber, including business retail subscribers, of voice over internet protocol service can access and benefit from the Oregon Telecommunications Relay Service, a program of the RSPF.

Staff appreciates Oregon Phone Systems willingness to remit the late payment fee and interest and the desire to come into compliance promptly. Also, Staff empathizes with the Company's concern of financial hardship and perception that the late report fee is abusive as documented in the waiver request. Pursuant to OAR 860-00-0050(3), the Commission, for consistency, imposes \$100 for late-filed statements and reports by electric companies, gas utilities, telecommunications providers, including voice over internet protocol service providers, and water utilities.

Conclusion

For these reasons, Staff does not recommend approval of Oregon Phone Systems' request for waiver of the RSPF late report fee. The Company did not proffer any

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evidence that demonstrates late submission of the RSPF Remittance Report were due to circumstances beyond its control.

PROPOSED COMMISSION MOTION:

Deny Oregon Phone Systems' request for waiver of the RSPF late report fee.

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