

ORDER NO. 18 414

ENTERED OCT 23 2018

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1180(13)

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 October 23, 2018, 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 "Michael Grant", is written over a horizontal line.

**Michael Grant**  
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.

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ITEM NO. CA5

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: October 23, 2018

REGULAR  CONSENT  EFFECTIVE DATE January 1, 2019

DATE: October 12, 2018

TO: Public Utility Commission

FROM: Jon Cray 

THROUGH: Michael Dougherty and Phil Boyle 

SUBJECT: RESIDENTIAL SERVICE PROTECTION FUND: (Docket No. UM 1180(13)) Surcharge Rate Review and Recommendation.

**STAFF RECOMMENDATION:**

Increase the monthly surcharge rate for the Residential Service Protection Fund (RSPF) to \$0.11 for calendar year 2019.

**DISCUSSION:**

Issue

Whether the Commission should adjust the current RSPF surcharge rate from \$0.06 to \$0.11.

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 Program (OTAP)<sup>1</sup>, also known as Oregon Lifeline, and OTRS. Under ORS 759.685(3),

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<sup>1</sup> The OTAP is the state counterpart to the Federal Communication Commission's Lifeline program. The FCC provides \$9.25 for the qualifying low-income customer's voice telephony or broadband internet

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the Commission must review the surcharge and the RSPF balance on an annual basis in order to 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, 2017, the Commission adopted Staff's recommendation to decrease the RSPF surcharge rate to \$0.06, effective January 1, 2018, to reduce the ending balance to match the six-month operating costs. See Order No. 17-453. The surcharge rate decrease effectively reduced the ending balance to match six months of projected expenses. However, the fund cannot sustain the delivery of program services if the RSPF surcharge rate remains at \$0.06 for calendar year 2019 largely due to two factors.

1. On October 26, 2017, Virgin Mobile USA, L.P. (Virgin Mobile), doing business as Assurance Wireless, filed notice with the Commission that, effective December 2017, the company will seek reimbursement from the RSPF for providing \$3.50 of OTAP support to the qualifying low-income customer.<sup>2</sup> Therefore, Virgin Mobile now claims a monthly support amount (i.e., \$3.50) for each of approximately 35,000 customers, more than doubling OTAP. Staff estimates continued OTAP customer growth with Virgin Mobile due to the appeal of the company's no-charge wireless service unless the Federal Communications Commission (FCC) adopts regulations that affect the Lifeline program in a manner that affects enrollment.<sup>3</sup>

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access service. The State of Oregon provides a supplemental \$3.50 for voice telephony service only at this time. The maximum combined support an eligible low-income customer can receive is \$12.75.

<sup>2</sup> The Commission had previously granted Virgin Mobile's request for waiver of former OAR 860-033-0035(1)(c) (2012), currently numbered as OAR 860-033-0035(1)(b). See Order No. 12-015, para. 15 of Appendix A in Docket No. UM 1522. Therefore, Virgin Mobile had been providing \$3.50 of support from its own funds without seeking reimbursement from the RSPF.

<sup>3</sup> For example, the FCC proposes to mandate a customer co-pay among other proposals that may affect participation in the Oregon Lifeline program. In re *Bridging the Digital Divide for Low-Income Consumers*, et al., WC Docket No. 11-42, et al., Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475, released December 1, 2017.

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2. The Commission purchased approximately \$188,000 worth of specialized telecommunications equipment in fiscal year 2017 as opposed to nearly \$1 million in fiscal year 2018 after entering into contracts with seven (7) vendors for the purchase and distribution of TDAP equipment. Also, the growing demand and overall cost for tablets and mobile phones with accessibility applications or solutions for individuals with disabilities is significantly greater than landline-based telephone equipment.

Increasing the surcharge rate to \$0.11 is expected to sustain the RSPF ending balance within the six-month threshold of projected operating costs. The current ending balance is \$1.8 million with a six-month operating cost of \$1.6 million. Barring any unforeseen circumstances (e.g., changes to FCC regulations, etc.), Staff estimates by the end of 2019, the ending balance will be \$1.1 million with a projected six-month operating cost of \$2.3 million. Also, it appears that \$0.11 may be sufficient to accommodate program expenditures for at least two calendar years.

#### Conclusion

Staff finds that increasing the surcharge rate to \$0.11 for the calendar year 2019 is necessary to maintain the ending balance with forecasted operating costs, yet will ensure the RSPF has adequate resources in 2019.

#### **PROPOSED COMMISSION MOTION:**

Approve an increase in the RSPF monthly surcharge rate from \$0.06 to \$0.11, effective January 1, 2019.

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