

ORDER NO. 21-390

ENTERED Nov 03 2021

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1180(16)

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 November 2, 2021, 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".

**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: November 2, 2021**

REGULAR  CONSENT  EFFECTIVE DATE January 1, 2022

**DATE:** October 26, 2021

**TO:** Public Utility Commission

**FROM:** Jon Cray

**THROUGH:** Michael Dougherty and Phil Boyle **SIGNED**

**SUBJECT:** RESIDENTIAL SERVICE PROTECTION FUND:  
(Docket No. UM 1180(16))  
Surcharge Rate Review and Recommendation.

**STAFF RECOMMENDATION:**

Decrease the monthly surcharge rate for the Residential Service Protection Fund (RSPF) to \$0.09 for calendar year 2022.

**DISCUSSION:**

Issue

Whether the Commission should adjust the current RSPF surcharge rate from \$0.14 to \$0.09.

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

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<sup>1</sup> The OTAP is the state counterpart to the Federal Communication Commission's (FCC's) Lifeline program. The FCC currently provides \$5.25 and \$9.25 for the qualifying low-income customer's voice

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Commission must review the surcharge and the RSPF balance on an annual basis and 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 December 1, 2020, the Commission adopted Staff's recommendation to increase the RSPF surcharge rate from \$0.10 to \$0.14 to accommodate increased expenditures resulting from adjustments to the OTAP subsidy and rising enrollment.<sup>2</sup> See Order No. 20-463. However, the fund currently exceeds six months of projected expenses due to the following contributing factors.

To resolve an investigation<sup>3</sup> conducted by the Attorney General of the State of Oregon and the Commission into a Sprint (now T-Mobile USA, Inc.) subsidiary, Assurance Wireless USA, L.P. (Assurance Wireless), the parties entered into a settlement agreement on April 22, 2021 with agreement to pay \$859,451.

i-wireless, LLC (i-wireless) dba Access Wireless and Assurance Wireless petitioned the Commission on January 27, 2021 and March 11, 2021, respectively, for a waiver of the first sentence in OAR 860-033-0010(2) that requires an Eligible Telecommunications Provider to offer to all eligible low-income customers OTAP discounts on all service offerings that include broadband internet access service or basic telephone service. Effective January 1, 2021, both companies ceased to provide the OTAP benefit to eligible low-income customers; instead, both provide the federal Lifeline discount. Staff will formulate a recommendation that addresses the merits of the companies' pending petitions with a proposed Commission motion at a later public meeting date. As of May 2021,<sup>4</sup> Access and Assurance Wireless collectively represent 75 percent of the total Oregon Lifeline customer base.

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telephony and broadband internet access service, respectively. The State of Oregon provides a supplemental \$10.00. The maximum combined support an eligible low-income customer can generally receive is \$19.25.

<sup>2</sup> The Commission adjusted the OTAP discount from \$3.50 to \$7.00 in Docket No. AR 635.

<sup>3</sup> The settlement was made under Oregon's False Claims Act after PUC Staff investigated Sprint's billing practices and discovered it had been systematically overcharging the Oregon Lifeline program for ineligible usage.

<sup>4</sup> Assurance Wireless has not provided Staff with the total number of Oregon customers claimed for federal Lifeline disbursements since June 2021.

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The settlement agreement payment and the companies' pending petitions to forego provision of OTAP support to all eligible low-income customers has resulted in a surplus that exceeds the six-month threshold of projected operating expenditures by approximately two million. To ensure that the fund has adequate resources yet does not continue to exceed six months of projected expenses, Staff recommends that the Commission adjust the RSPF surcharge from \$0.14 to \$0.09.

The recommended surcharge rate of \$0.09 is expected to bring the RSPF into gradual compliance with the law while minimizing the potential for volatile changes to the surcharge rate. The ending balance for December 2022 is estimated to be \$3,676,532 with an estimated six-month operating cost of \$2,472,105.

Below is an overview of the surcharge rate history since the inception of the RSPF.

October 1987 – June 1990	\$0.25
July 1990 – June 1993	\$0.15
July 1993 – August 1994	\$0.16
September 1994 – December 1996	\$0.25
January 1997 – December 1997	\$0.13
January 1998 – December 2001	\$0.10
January 2002 – December 2004	\$0.13
January 2005 – December 2005	\$0.10
January 2006 – January 2007	\$0.08
February 2007 – December 2008	\$0.05
January 2009 – December 2009	\$0.09
January 2010 – December 2013	\$0.12
January 2014 – December 2014	\$0.11
January 2015 – December 2015	\$0.09
January 2016 – December 2017	\$0.07
January 2018 – December 2018	\$0.06
January 2019 – December 2019	\$0.11
January 2020 – December 2020	\$0.10
January 2021 – December 2021	\$0.14

### Conclusion

Staff finds that decreasing the surcharge rate to \$0.09 for the calendar year 2022 is necessary to ensure the fund has adequate resources in 2021 while sustaining an ending balance that does not exceed six months of forecasted operating costs.

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**PROPOSED COMMISSION MOTION:**

Approve a decrease in the RSPF monthly surcharge rate from \$0.14 to \$0.09, effective January 1, 2022.

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