

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 20, 2009**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** February 1, 2009

DATE: January 15, 2009

TO: Public Utility Commission

FROM: Steve Storm

THROUGH: Lee Sparling and Marc Hellman

SUBJECT: TRANS-CASCADES TELEPHONE CO: (Docket No. UM 1404/Advice No. 94) Increases the Late-Payment Charge for all customers and requests waiver of the Commission rule that currently sets the Late-Payment Charge.

CASCADE UTILITIES INC: (Docket No. UM 1405/Advice No. 143) Increases the Late-Payment Charge for all customers and requests waiver of the Commission rule that currently sets the Late-Payment Charge.

STAFF RECOMMENDATION:

I recommend the Commission grant the requests for waivers and that the tariff changes be allowed to go into effect with less than statutory notice.

DISCUSSION:

Cascade Utilities, Inc. (Cascade, or the Utility) and Trans-Cascades Telephone Company (Trans-Cascades, or the Utility), each d/b/a Reliance Connects, (collectively, the Utilities) filed Advice Nos. 143 and 94, respectively, in UM 1405 and UM 1404 on November 14, 2008. The filings included replacement tariff sheets and requested waivers of Oregon Administrative Rule (OAR) 860-034-120(2). The Utilities' filings request increases in the minimum past due balances for purposes of calculating the late payment charges. The purpose of these filings is to revise the conditions under which the Utilities will assess a minimum late payment charge on both residential and non-residential customer accounts.¹ Additionally, the Utilities request waivers of OAR 860-034-120(2) in order to accommodate the implementation of \$5.00 minimum

¹ Both current and proposed tariffs exempt federal, state, or municipal government agencies from late payment charges. Non-governmental agency customers in the proposed tariffs are presumed to be either residential or business customers.

late payment charges for residential customers and the implementation of \$10.00 late payment charges for business customers under conditions set forth in each Utility's filing. These "flat rate" late payment charges are proposed to replace the existing late payment charge, which is calculated by multiplying overdue balances by a fixed percentage. An implication of these changes is that customers having relatively large overdue balances may potentially have a lower late payment charge assessed than would be the case under the existing tariff; i.e., the late payment charges of \$5.00 for residential customers and \$10.00 for non-residential customers are not increased when overdue balances exceed the threshold amount—if a late payment charge is assessed, it is \$5.00 for residential customers and \$10.00 for non-residential customers.

The Utilities propose changing their late payment practices to encourage timely payment of their customers' telecommunication bills.

The Utilities seek waivers of Commission rules as the late payment charge specified under OAR 860-034-120(2) limits the charge to a percentage rate applied to overdue account balances. This level of late payment charge provides minimal incentive for customers to pay small-dollar telecommunications bills on time. For example, late payment charges under the rule are currently 1.5 percent of the overdue balance. Accordingly, an account with an overdue balance of \$50.00 would generate a late payment charge of \$0.75 under the existing rule.

The Utilities' filings increase the minimum balance threshold amount to greater than \$30.00 for residential customers and greater than \$45.00 for business customers before a late payment charge may be assessed. Residential customers having a past due balance of \$30.00 or less and business customers having a past due balance of \$45.00 or less will not be assessed a late payment charge. The Utilities' filings represent that the greater than \$30.00 and \$45.00 minimum balance threshold amounts were based on the highest rates each Utility charges in any given exchange for regulated basic local exchange service (including taxes and surcharges) in Oregon. Customers subscribing to regulated basic local exchange service only will therefore not be subject to the late payment charges for failing to pay one month's charges.

Each Utility's filing affirmed the Utility will continue to apply partial customer payments to the regulated service(s) first when there are both regulated and non-regulated services billed on one statement.

Furthermore, each Utility's filing represented that if a charge for a regulated service has been disputed by a customer, then the Utility will not include the amount of the disputed

charge in the overdue balance on regulated service(s) when calculating the “threshold” for the late payment charge.

Staff discussions with the Utilities following the initial filings (Advice Nos. 142 and 93 for Cascade and Trans-Cascade, respectively) made by each Utility on August 19, 2008, resulted in revisions to both proposed timing and tariff language. The Utilities’ represented in a November 18, 2008, e-mail that a customer notification letter including all information requested by Staff would be included as a separate bill insert with bills going to customers on or about December 1, 2008.

Staff requested the customer notification letters regarding the proposed revisions in late payment charges include specific language, with the following relevant paragraphs to be included in the Utilities’ customer notification letters (using Cascade’s letter as an example):

“Please note that the Public Utility Commission of Oregon does not regulate all services that Cascade Utilities may provide to you. One example of an Oregon-regulated service is your basic local exchange telephone service. Please call us if you have questions on which services provided to you by Cascade Utilities are Oregon-regulated services. Additionally, please call us if you have questions regarding Cascade Utilities’ Late Payment charge on other services.

Cascade Utilities will not disconnect a customer’s basic local exchange telephone service for non-payment if the past due balance on Oregon-regulated services is less than \$30.01 for residential customers and less than \$45.01 for business customers.

Customers may request that the Public Utility Commission of Oregon investigate this rate change. Should you wish to make such a request, you may do so by writing or calling the Public Utility Commission’s Consumer Services Section. You can mail your request to the Commission at the address below or you can telephone the Commission at the telephone number below. Your request can be e-mailed to the Commission at the e-mail address below or filed using the Commission’s website at the web address below. Should you wish to make such a request, please do so by December 19, 2008.”

As of January 14, 2009, the Public Utility Commission’s Consumer Services Section has received one (1) request from a Cascade customer and no requests from Trans-Cascade customers that the Commission investigate the proposed changes in the

Utility's Late Payment Charge. This request, reviewed by both Consumer Services' staff and Utility Program staff, essentially concerned the timing of when late payment charges had been assessed by Cascade in the past. Follow-up discussions Staff had with the Utilities resulted in supplemental filings by the Utilities on January 9, 2009, including replacement proposed tariff sheets and Applications for Waiver of Statutory Notice. Language concerning customer billing in the replacement proposed tariffs now includes:

"Bills are due by the 16th day following the date of presentation unless a later date is specified on the bill and may be paid at any business office of the company or at any agency authorized to receive such payments. Bills become delinquent 16 days after the date of presentation."²

I believe the above change in proposed tariff language, in the context of the Utilities' existing practices, adequately addresses the concern expressed by the Cascade customer. The Utilities, in telephone conversations with Staff on January 8, 2009, represented that existing practices included: a) late charges for both residential and non-residential customers are not assessed unless payment has not been received prior to the date of preparation of the subsequent month's bill; and b) bills are mailed no later than the last day of the month.

The revised tariff language and the Utilities' operating practices, as represented in the January 8, 2009, telephone conversations, are viewed by Staff as conforming with OAR 860-034-0110 and OAR 860-034-0120, which concern, for small telecommunications companies, the timing of due and payable periods and late payment charges. These Rules are attached as Attachment A.

PROPOSED COMMISSION MOTION:

Cascade Utilities, Inc. and Trans-Cascades Telephone Company, each d/b/a Reliance Connects, be granted waivers, *with less than statutory notice*, of OAR 860-034-0120(2) and each Utility be allowed to implement a \$5.00 late payment charge for residential customers and a \$10.00 late payment charge for business customers effective February 1, 2009, under the conditions set forth in each Utility's November 14, 2008, filing as modified by each Utility's January 8, 2009, supplemental filing.

² The Utilities' existing tariffs define a bill's "date of presentation" as, essentially, the date the bill is mailed to the customer.

Attachment A

Oregon Administrative Rule 860-034-0110

Due and Payable Period

(1) Each small telecommunications utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of final bills, to the due date, is not less than 15 days.

(2) If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

[References omitted]

Oregon Administrative Rule 860-034-0120

Late-Payment Charge

(1) A small telecommunications utility may apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule.

(2) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month's bill for residential accounts or by the bill due date for all other accounts. The late-payment charge may not be applied to time-payment accounts that are current. The Commission will determine the late-payment rate based on a survey of prevailing market rates for late-payment charges of commercial enterprises and will advise all small telecommunications utilities of the changes in the rate they may use to determine late-payment charges on overdue customer accounts as needed. The current late-payment rate and the conditions for its application to customer accounts shall be specified on the utility bill.

[References omitted]