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**VIA EMAIL**

September 9, 2016

To: Public Utility Commission of Oregon

Re: Docket No. AR 597 - Comments for Reporting Rules for Companies with a Qualified Project Determination from the PUC

The League of Oregon Cities largely supports the proposed rules. In order for the PUC to make the statutorily required annual report to the legislature, annual information must be collected by the PUC from each company with a qualified project. That is, in order to implement ORS 308.681, these rules are needed to spell out the required information. ORS 308.681(2)(c) provides the PUC with latitude in its information collection requirements—but the goal of the report is to provide the legislature with information that makes it possible to do a thorough analysis and evaluation of the new property tax exemption available under ORS 308.677. Our comments relate to recommendations to improve the usefulness of the information given to the legislature so it may better evaluate the utility of the exemption (i.e., whether Oregon residents are receiving sufficient public benefit via higher speed Internet service in exchange for lower property tax revenue) in order to make decisions regarding continuation, modification, or elimination of the exemption.

First, proposed rule 860-200-0200 distinguishes between two general categories: 1) a company that received a determination that its project is a qualified project; and, 2) a company that both received a determination that its project is a qualified project and actually offered the qualified service during the preceding calendar year. The latter group of companies is required to report more information under the proposed rules. Our concern is that “offered” can be a vague term in this context and it could be disputed as to which companies are subject to the OAR 860-200-0250 reporting requirements. The rules do not identify who makes the “offering” determination. The Oregon Department of Revenue (DOR) makes gigabit exemption determinations, not the PUC. For the DOR to grant the gigabit exemption, various criteria must be met including a determination that the company is “offering” the service. We submit that the rule would be clearer if it required that all companies that applied to the DOR for a gigabit exemption in the previous year be subject to the OAR 860-200-0250 requirements, as that is an objective fact that the PUC can easily verify. This recommended change would also address uncertainties that arise when appeals of DOR determinations are pending.

Second, the quartiles used in OAR 860-200-0250(5) are too large to be very useful in any meaningful evaluation process. To receive the exemption, companies must “offer” the gigabit service to a “majority of the residential customers of the company’s broadband services.” Thus, it would be more logical to require a percentage report to indicate whether the company had met the majority requirement, rather than a mere quartile indication. Alternatively, we recommend that the reporting be on a decile percentage basis, rather than quartile.

Third, the number of subscribers to a company’s gigabit service each year is a very important piece of information in any meaningful evaluation of the gigabit tax exemption. OAR 860-200-0250(7) is the only provision that addresses the number of actual subscribers. This provision could be greatly improved by 1) requiring the reporting of the actual number of subscribers, not a rounded percentage of subscribers (which can be misleading) and 2) revising the tiers in paragraphs (a) to (d) of subsection (7) to actually include a bucket that is for subscribers who receive “at least approximately 1 gigabit.” One gigabit per second equals approximately 1,000 MBPS per second; thus, we are at a loss as to why bucket (c) calls for all speeds over 500 Mbps. The language used in bucket (c) encompasses not only gigabit speeds but also speeds that are significantly slower and also those faster than 1 gigabit. It is the gigabit speed that is the focus of the new exemption and data on subscribers to that service is key. This factor must be appropriately reflected in the reporting data, not buried among other, irrelevant information.

Fourth, knowing all the costs of subscription to a company’s gigabit service is also very important information for the legislature. OAR 860-200-0250(8) requires a copy of the company’s service agreement for subscribers. This is helpful information to collect, but the language will not likely be interpreted to include the rate sheet for the company’s gigabit offering. The rates for specific services are not always part of subscription agreements. The rule should be clarified to specifically indicate that the rate sheet be included. Such information would also provide more specificity as to the type of access provided (see subsection (6)). In addition to the monthly subscription rate pricing, the report should include the installation costs, including other associated costs for obtaining the service. Cancellation costs or disconnection fees should also be reported. Service cannot be truly “accessed” if fees are cost-prohibitive and thus the access fee information is important to the legislature. Merely reporting on the gigabit subscription rate without other associated costs, whether one-time or on-going, would convey incomplete information.

Thank you for your consideration of these comments and recommendations for amendment to the proposed rules.

Best regards,

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