

September 9, 2016

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VIA EMAIL

Public Utility Commission of Oregon
201 High Street SE, Suite 100
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Re: Docket AR 597; Comments of Google Fiber Oregon, LLC

Dear Administrative Law Judge Harper and Commissioners:

Google Fiber Oregon, LLC (“Google Fiber”) respectfully submits these comments on the rules Commission Staff proposed for adoption by the Commission in this proceeding. These rules are intended to assist the Commission in submitting the annual reports required by ORS 308.681(2) to the interim committees of the Legislative Assembly related to revenue.

Google Fiber generally supports the proposed rules. Commission Staff has done admirable work in considering and balancing the requirements of the statute and the issues raised by the participants in several workshops. The proposed rules will provide the Commission with sufficient information to prepare its reports, and at the same time should protect competitively sensitive information of companies whose property has been granted an exemption under ORS 308.677. Accordingly, the proposed rules, if adopted, will assist the Commission, but not unduly interfere with the fair operation of a competitive market.

As it expressed during the workshops, Google Fiber thinks that the proposed rules will require companies to report more information than the Commission is required by law to include in the reports. In particular, subsections (4), (6) and (7) of proposed OAR 860-200-0250 would require reporting information relating to the actual level of services subscribed to by a company’s customers, broken down by download speed tiers as well as by census block. Such detailed information has the potential to reveal a company’s level of success in the market as well as consumer acceptance of different types of service offerings. Google Fiber does not think that the Commission is required to include any such information in the report because it is not relevant to the criteria for granting or evaluating the exemption, which relate to a company’s *capacity* to provide a certain level of service. Google Fiber is also concerned that such information – which the rules would require to be filed without providing any protection for confidential information – has the potential to affect competition by influencing the behavior of other market participants. In a similar vein, Google Fiber does not think the Commission needs to have access to the highly confidential information contained in companies’ Form 477 data submitted to the Federal

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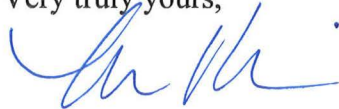
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Communications Commission in order to prepare its reports, as required by proposed OAR 860-200-0200(5).

Google Fiber is still willing to support these rules notwithstanding the concerns expressed above because Staff's proposal adequately balances the requirement to provide this sort of information with a concern for the protection of competitively sensitive information. For example, the specific speed tiers Staff has proposed should be sufficiently broad to preclude anticompetitive uses. Additionally, the requirement to provide Form 477 data provides only for a "review," and not filing, of such data, and also includes the requirement to "coordinate on measures to protect Form 477 subscription data from disclosure as a result of Staff's review." Were the Commission to require increased granularity in the rules regarding the actual services companies are providing to customers, Google Fiber would need to reconsider its support for those rules.

Google Fiber appreciates the hard work of Commission Staff in arriving at a balanced set of proposed rules and recommends that the Commission adopt these proposed rules without material change.

Very truly yours,



Lawrence H. Reichman

LHR