



Oregon

Kate Brown, Governor

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September 9, 2016

Public Utility Commission of Oregon
PO Box 1088
Salem OR 97308-1088

Re: Docket No. AR 597, Reporting Requirements

Chair Hardie and Members of the Commission:

I am writing today to share four concerns of the Department of Revenue (DOR) related to proposed rule 860-200-0250 under the above docket item. The proposed rule creates reporting requirements for beneficiaries of the so-called gigabit exemption from SB 611 (2015). The rule will set the reporting requirements needed to give the PUC information necessary to meet the broad mandate in ORS 308.681(2)(c) to report to the legislature not just specific outlined items, but also “Any other information the commission considers necessary for a thorough analysis of the exemption granted under ORS 308.677.”

1. Section 2 of the rule requires reporting the amount of the investment in infrastructure that “enables the company to offer the qualified service.” The DOR would ask that these costs be broken into two categories; costs that relate exclusively to the qualified project and costs that relate to property that will be shared with other non-qualifying services like video, phone, business internet and lower tier broadband services. Knowing the investment a company makes into their overall network is helpful, and it is true these investments may enable the company to offer communication services *including* the qualified service. The goal of the exemption in ORS 308.677, however, is to incentivize investment specifically in residential gigabit networks. Without knowing the amount of investment a company made exclusively for the qualified project the legislature will have a more difficult task to effectively analyze whether the exemption has succeeded.

2. Sections 4, 6, and 7 all require reporting on various metrics that break customers into speed ‘buckets’ based on download speeds, with the fastest bucket being “greater than 500 Mbps.” This is confusing because 500 Mbps is only half the speed required to qualify for the exemption and the clear purpose of SB 611 was to incent development of internet service with symmetrical speeds of approximately one gigabit per second or higher. The DOR suggests including an additional category in each of these sections for download speeds of “approximately

1 Gbps or greater” to better help the legislature determine whether they have actually incentivized the higher speeds as intended.

3. Sections 6 and 7 both direct companies to report percentages of customers “rounded up to a whole percent.” The largest cable company in the state has 600,000 customers in Oregon and Southwest Washington according to a recent *Oregonian* article. A representative for the same company indicated at a previous PUC hearing that across the 26 states where their gigabit service was available at the time they had “dozens” of customers. Using the above numbers as sample inputs in Section 7, rounding up to the nearest whole percent would make it impossible to discern in the PUC’s report whether the company was reporting tens of customers, or thousands of customers, who subscribe to the higher speed service. The DOR suggests rounding these percentages to two decimal places, so 0.01%.

4. Our final comment is that there is no requirement anywhere in the PUC’s proposed rule for companies to simply report the number of subscribers for the symmetrical gigabit service that qualifies them for the exemption. Certainly the legislature would benefit from knowing the actual number of customers for the qualified project as they seek to analyze whether exemption has met its purpose. If nothing else it would allow the legislature to calculate how many dollars of taxes have been forgone per subscriber for the qualified service.

I appreciate your attention to these concerns and am available should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gharst". The signature is written in a cursive, somewhat stylized font.

Mark Gharst
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