



PHIL BARNHART
STATE REPRESENTATIVE
CENTRAL LANE AND LINN COUNTIES

February 29, 2016

Oregon Public Utility Commission
201 High St. SE, Ste. 100
Salem, OR 97308

RE: Comcast UM 1760

Dear Chair Ackerman and Commissioners,

I serve as chair of the committee of the Oregon House of Representatives responsible for vetting SB 611, the 2015 legislation that created the gigabit internet property tax exemption. This tax exemption was designed to encourage installation of infrastructure providing for a widely available very high-speed network in Oregon. The intent of this law is that the tax break is to be given as an inducement to make a bonafide investment in gigabit service and offer it to Oregonians. The legislature designed a rich incentive in SB 611, commensurate with the tremendous investment required to build such a network.

In its submission, Comcast Corporation seems to claim that infrastructure already in place is sufficient to qualify them for the gigabit tax exemption. It is not. It fails to comply with Section 5(1) and Section 5(2)(a) of SB 611.

Section 5(1) of SB611 requires that the exemption may be granted if a company "builds, maintains and operates a qualified project in Oregon." Section 5(2)(a) notes that a project must "require capital investment in newly constructed or installed real or tangible personal property", and the project can be qualified only if the service is offered "to a majority of the residential customers of the company's broadband services."

Comcast appears to claim their activities prior to passage of SB 611 constitute a qualified project under the gigabit exemption law, because Comcast has advertised an offer, essentially, to build out gigabit service from their current fiber network to customers' homes at customers' own expense, where the homes are less than one-third of a mile from Comcast's current fiber footprint.

The terms of the Gigabit Pro service as advertised are clearly calculated to be unacceptable to nearly all customers, and therefore cannot be considered a real offer. Additionally, there is every reason to doubt the service is available to a majority of Comcast's broadband customers, as most Comcast customers likely live more than one-third of a mile from Comcast's current fiber footprint. The Commission must not accept these specious claims without additional scrutiny.

Comcast's website describes terms under which this service is "offered" (website viewed 2/29/2016):

District Office: PO Box 71188, Springfield, OR 97475, 541-607-9207, www.leg.state.or.us/barnhart
Session Office: State Capitol, Salem, OR 97301, 503-986-1411, rep.philbarnhart@state.or.us



“Restrictions apply. Not available in all areas. Limited to residential customers. Requires subscription to Gigabit Pro service. Minimum two-year term agreement required. Early termination fee applies. Service generally available within one third of a mile of Comcast fiber network and requires custom installation. Installation may require 6 to 8 weeks or more to complete. Fees of up to \$500 for installation and up to \$500 for activation apply. Equipment, taxes, and fees and other applicable charges extra. Pricing and other charges subject change. Limited to service to a single outlet. Actual speed may vary and are not guaranteed.”

Customers are asked to pay at least \$1,000 in upfront costs and agree to maintain the service for two years (during which Comcast may change prices at their whim) and risk paying a \$1,150 early termination charge. The terms of this offer are calculated to be so unfavorable as to ensure no customers subscribe, while allowing Comcast to argue it has made an offer. This attempt to skirt the intent of SB 611 should be rejected.

Additionally, Comcast states that Gigabit Pro service is generally available to customers who live within one-third of a mile of their existing fiber footprint. The exemption is available for gigabit service provided to a majority of customers, and it does not appear likely that a majority of Comcast’s customers live within one-third of a mile from Comcast’s existing fiber footprint. The Commission cannot accept this tendentious claim at face value. At a minimum, the Commission should require Comcast to show how many customers live within this offer area, and demonstrate that number constitutes a majority of their customers.

Finally, I would note that the Commission has a duty to interpret statutes in ways that put all of the law into effect and reasonably interprets the legislative intent. It was not the intent to give away tax dollars in return for nothing. This proposal returns nothing to Oregonians in return for tax forgiveness. I urge you to reject this application.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Barnhart", written in a cursive style.

Phil Barnhart
State Representative
Central Lane and Linn Counties