



Central Services  
Information Services

City of Eugene  
100 West 10<sup>th</sup> Av., Ste 450  
Eugene, Oregon 97401  
(541) 682-5070  
(541) 682-6899 FAX  
www.eugene-or.gov

April 5, 2013

Representative Paul Holvey  
Chairman, House Committee on Consumer Protection and Government Efficiency  
900 Court Street., NE, H-277  
Salem, Or 97301

[rep.paulholvey@state.or.us](mailto:rep.paulholvey@state.or.us)

**Re: EUGENE SUPPORT for HJM 12 - LOCAL RIGHTS OF WAY MANAGEMENT AUTHORITY**

Dear Chair Holvey:

I am writing to let you know that the City of Eugene supports HJM 12 (rep. Barnhart) because it would send an important message to Congress and other federal regulatory agencies regarding local governments long-held policies and authorities about management of public rights of way within our jurisdictions.

The Federal Communications Commission's Right Of Way [ROW] Notice of Inquiry (NOI) proceeding appears innocuous but this particular federal review of local public rights of way management and compensation policies represents a continuing threat to the ability of local governments to recover fair and reasonable compensation for the use of public rights of way.

#### **BACKGROUND**

Initiated by the telecommunications industry in 2011, the FCC's NOI could result in the FCC developing rules which preempt local rights-of-way management and compensation authority endorsed by the federal Telecommunications Act of 1996 and exercised under Oregon's Home Rule constitution and Eugene Municipal Code provisions. Any accompanying loss of ROW use fees are significant and could amount to hundreds of thousands of dollars millions annually, depending upon the extent of federal interference or preemption. ROW fees are allocated to our General Fund so are particularly critical to the support of law enforcement and fire services in each city which receive the bulk of General Fund monies.

The Cities of Eugene, along with the National League of Cities, the National Association of Counties, the United States Conference of Mayors, the International Municipal Lawyers Association, the National Association of Telecommunications Officers and Advisors, the Government Finance Officers Association, the American Public Works Association, and the International City/County Management Association submitted formal comments in the ongoing FCC proceeding entitled *Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting*. An untold number of individual cities and counties across the nation filed Comments as well.

Our comments included technical analysis, econometric studies, and local experiences, all of which confirmed

that local rights-of-way management practices are neither delaying broadband deployment nor discouraging increased penetration of broadband. In fact, in Eugene there are more telecommunications companies marketing their services after that Telecommunications Act of 1996, and after Eugene updated its ROW management Codes [to comply with the Act] than before. While the record fails to present any evidence or analysis that would justify the Commission's unauthorized interference with our valid local practices,<sup>1</sup> HJM 12 reflects our position that we want to encourage the FCC to partner with local governments and the industry to develop targeted, voluntary programs that may increase broadband deployment.<sup>2</sup>

Thank you for your consideration of our support of HJM 12.

Sincerely,



Pam Berrian  
Telecommunications Program Manager  
Information Services Division

Cc: Representative Barnhart

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<sup>1</sup> Reply Comments of New America Foundation, *et al.*, WC Docket No. 11-59.

<sup>2</sup> *See, e.g.*, Ex Parte Letter from Steve T aylor to Marlene H. Dortch, WC Docket No. 11-59 (Sept. 9, 2011) (discussing important role Commission can play in facilitating public educational forums).