



## Office for Community Technology

Testimony on HB 2455  
Submitted by Mary Beth Henry, on behalf of  
the City of Portland  
to the House Committee on Revenue  
March 1, 2013

Chair Barnhart and committee members, thank you for the opportunity to provide testimony today. My name is Mary Beth Henry. I manage the Office for Community Technology at the City of Portland. I also serve as Vice Chair of the Oregon Broadband Advisory Council, representing all Oregon cities, but my testimony today is on behalf of the City of Portland.

One of my job responsibilities at the City of Portland is to negotiate agreements for telecommunications providers who want to use my community's right of way to offer services. I have negotiated approximately 20 agreements or renewals over the last 15 years. A common complaint from competitive providers is "How come we pay 5% of gross revenues and the incumbent provider only pays 7% of dialtone revenue, a much smaller base. That isn't fair - we compete for the same customers."

In 1989, when the current law was written, there were few if any direct competitors to the incumbent phone company. In 2013 there are competitor providers throughout Oregon in the wireline telephone business. However, state law fails to recognize the competitive environment in which we live today.

The City of Portland opposes HB 2455 as introduced, because it attempts to address a problem caused by arbitrary statutory restrictions with yet more unwarranted restrictions. We recommend that you adopt the -1 amendment and take a first step in addressing an inequity in state law regarding telecommunications providers. Bear in mind, the -1 amendment does not propose new authority to levy local fees or taxes. It would merely repeal a statutory scheme that mandates an inequitable tax system. Cities will have to take



local action to implement these changes to address the inequity that has been built into the system since the 1989 Legislative Session.

Recognizing that inequity, the Portland City Council recently exercised its home rule authority to amend our local Utility License Fee. Through the Utility License Fee the City imposes a tax upon the gross revenues of utilities for operating within the City. Under the recent amendment, both the incumbent providers and the competitors are required to pay the same rate – 5% of gross revenues. It is important to note that the Utility License Fee is a tax for the privilege of doing business in Portland. It is not imposed upon, and bears no relationship to, use of the public right-of-way.

There are currently about 151 landline telecommunications providers in Portland, ranging from very, very small resellers to very large, facilities-based providers. We have two incumbent providers, CenturyLink and Frontier. Portland's recent code amendments are intended to provide that all wireline telecommunications businesses pay taxes at the same rate on the same revenue base. It was enthusiastically supported by the competitive providers but opposed by CenturyLink (dba Qwest). After it was unanimously approved by the Council CenturyLink filed a complaint against the City of Portland seeking an injunction and a declaratory judgment to preclude enforcement of Portland's recent code change. We will vigorously defend our charter authority to levy equitable utility license taxes. Likewise, we support repealing the statutory restrictions that mandate an inequitable tax scheme for use of the public right of way.

In conclusion, under the -1 amendment, instead of varying rates on wireline telecommunications providers, localities would be able to charge all landline telecommunications businesses the same rate on the same revenue base for use of the public right of way. It is equitable and fair.

Thank you for the opportunity to address your Committee. I am happy to try to answer any questions you may have regarding this legislation.