

**PROPOSED AMENDMENTS TO
HOUSE BILL 2455**

- 1 On page 1 of the printed bill, line 2, delete “221.505, 221.510 and”.
- 2 In line 3, delete “221.515” and insert “759.405 and 759.410; repealing ORS
3 221.505, 221.510, 221.515 and 759.219”.
- 4 Delete lines 5 through 30 and delete pages 2 and 3 and insert:
- 5 **“SECTION 1. ORS 221.505, 221.510, 221.515 and 759.219 are repealed.**
- 6 **“SECTION 2. ORS 759.405 is amended to read:**
- 7 “759.405. (1) A telecommunications carrier may elect to be subject to this
8 section and ORS 759.410. The telecommunications carrier shall notify, in
9 writing, the Public Utility Commission of its election. Such election shall
10 be effective 30 days after the written notification is received by the Public
11 Utility Commission. A telecommunications carrier that elects to be subject
12 to this section and ORS 759.410 shall be subject to the infrastructure in-
13 vestment and price regulation requirements of this section and ORS 759.410
14 and shall not be subject to any other regulation based on earnings, rates or
15 rate of return.
- 16 “(2) A telecommunications carrier that elects to be subject to this section
17 and ORS 759.410 shall establish in its accounts a Telecommunications
18 Infrastructure Account. The telecommunications carrier shall commit to its
19 Telecommunications Infrastructure Account over a four-year period amounts
20 totaling 20 percent of the telecommunications carrier’s gross regulated
21 intrastate revenue for the calendar year immediately prior to the year the
22 telecommunications carrier elects to be subject to this section and ORS

1 759.410. Of the total committed amount, 30 percent shall be credited to and
2 made available for the purposes of the electing carrier's account on the date
3 the telecommunications carrier's election becomes effective. An electing
4 telecommunications carrier shall credit an equal amount on the same date
5 in the next following year. The electing carrier shall credit to its Telecom-
6 munications Infrastructure Account an amount equal to 20 percent of the
7 total committed amount on the same date in each of the next following two
8 years.

9 “(3)(a) A telecommunications carrier that elects to be subject to this
10 section and ORS 759.410 shall expend the moneys in the telecommunications
11 carrier's Telecommunications Infrastructure Account on a plan or plans ap-
12 proved by the Oregon Business Development Commission under ORS 759.430.
13 Subject to paragraphs (c) and (d) of this subsection, the total amount of
14 capital and other expenses associated with completing the projects shall
15 equal the total amount of moneys available in the account.

16 “(b) Moneys in the account shall be used primarily to ensure that rural
17 and urban Oregonians have improved access to telecommunications technol-
18 ogy and services. Expenditures from the account shall be used for investment
19 in telecommunications infrastructure and deployment of new and advanced
20 telecommunications services.

21 “(c)(A) Within 120 days following the effective date of a telecommuni-
22 cations carrier's election to be regulated under this section and ORS 759.410,
23 but not later than January 1 of the year following the effective date of a
24 telecommunications carrier's election, and on the same date in each of the
25 next following three years, a telecommunications carrier serving less than
26 one million access lines in Oregon shall transfer 40 percent of the moneys
27 most recently credited to its Telecommunications Infrastructure Account to
28 the Connecting Oregon Communities Fund established under ORS 759.445.

29 “(B) Within 120 days following the effective date of a telecommunications
30 carrier's election to be regulated under this section and ORS 759.410, but not

1 later than January 1 of the year following the effective date of a telecom-
2 munications carrier's election, and on the same date in the next following
3 year, a telecommunications carrier serving one million or more access lines
4 in Oregon shall transfer 70 percent of the moneys most recently credited to
5 its Telecommunications Infrastructure Account to the Connecting Oregon
6 Communities Fund established under ORS 759.445.

7 “(d) Notwithstanding ORS 285A.075 (2), if the Oregon Business Develop-
8 ment Commission determines, following notice and a public hearing, that the
9 telecommunications carrier is not complying with plans or plan modifica-
10 tions approved under ORS 759.430, following notice to the telecommuni-
11 cations carrier and reasonable opportunity to cure any noncompliance, the
12 Oregon Business Development Commission may require the telecommuni-
13 cations carrier to transfer any or all moneys remaining in the carrier's
14 Telecommunications Infrastructure Account, and any future amounts cred-
15 ited to the account, to the Connecting Oregon Communities Fund established
16 under ORS 759.445.

17 “(4) Nothing in this section affects the authority of a city or municipality
18 to manage the public rights of way or to require fair and reasonable com-
19 pensation from a telecommunications carrier, on a competitively neutral and
20 nondiscriminatory basis, under ORS 221.420[,] **and** 221.450[, 221.510 and
21 221.515].

22 “**SECTION 3.** ORS 759.410 is amended to read:

23 “759.410. (1) It is the intent of the Legislative Assembly that:

24 “(a) The State of Oregon cease regulation of telecommunications carriers
25 on a rate of return basis;

26 “(b) Telecommunications carriers subject to rate of return regulation have
27 the ability to opt out of rate of return regulation;

28 “(c) A telecommunications carrier that opts out of rate of return regu-
29 lation under this section and ORS 759.405 shall be subject to price cap reg-
30 ulation and the carrier under price cap regulation shall continue to meet

1 service quality requirements; and

2 “(d) Telecommunications carriers that opt out of rate of return regulation
3 under this section and ORS 759.405 shall make payments to the state to
4 support the use of advanced telecommunications services and to support de-
5 ployment of advanced telecommunications services.

6 “(2) A telecommunications carrier that elects to be subject to this section
7 and ORS 759.405 shall be subject to price regulation as provided in this
8 section and shall not be subject to any other retail rate regulation, including
9 but not limited to any form of earnings-based, rate-based or rate of return
10 regulation.

11 “(3) The price a telecommunications utility that elects to be subject to
12 this section and ORS 759.405 may charge for basic telephone service shall
13 be established by the Public Utility Commission under ORS 759.425. Subject
14 to ORS 759.415, the regular tariff rate of intrastate switched access and re-
15 tail telecommunications services regulated by the commission, other than
16 basic telephone service, in effect on the date the carrier elects to be subject
17 to this section and ORS 759.405 shall be the maximum price the telecommu-
18 nications carrier may charge for that service.

19 “(4) A telecommunications carrier that elects to be subject to this section
20 and ORS 759.405 may adjust the price for intrastate switched access or a
21 regulated retail telecommunications service between the maximum price es-
22 tablished under this section and a price floor equal to the sum of the total
23 service long run incremental cost of providing the service for the nonessen-
24 tial functions of the service and the price that is charged to other telecom-
25 munications carriers for the essential functions. Basic telephone service
26 shall not be subject to a price floor.

27 “(5) The price for a new regulated retail telecommunications service in-
28 troduced by a telecommunications carrier within four years after the date
29 the carrier elects to be subject to this section and ORS 759.405 shall be
30 subject to a price floor test by the commission to ensure that the service is

1 not priced below the sum of the total service long run incremental cost of
2 providing the service for the nonessential functions of the service and the
3 price that is charged to other telecommunications carriers for the essential
4 functions. Beginning on the date four years after September 1, 1999, the price
5 of a new telecommunications service shall be subject to a price floor test by
6 the commission to ensure that the service is not priced below the total ser-
7 vice long run incremental cost of providing the service, without regard to
8 whether the service is considered essential or nonessential.

9 “(6) A telecommunications carrier that elects to be subject to this section
10 and ORS 759.405 may package and offer any of its retail telecommunications
11 services with any other service at any price, provided the following condi-
12 tions apply:

13 “(a) Any regulated telecommunications service may be purchased sepa-
14 rately at or below the maximum price.

15 “(b) The price of the package is not less than the sum of the price floors
16 of each regulated retail telecommunications service included in the package.

17 “(c) The price of a package that is comprised entirely of regulated retail
18 telecommunications services does not exceed the sum of the maximum prices
19 for each of the services.

20 “(d) The price of a package comprised of regulated and unregulated retail
21 telecommunications services does not exceed the sum of the maximum prices
22 established under this section for regulated services and the retail price
23 charged by the carrier for the individual unregulated services in the package.
24 A telecommunications carrier subject to regulation under this section shall
25 provide notice to the commission within 30 days of a change in the price of
26 an unregulated telecommunications service contained in the package.

27 “(7) Nothing in this section or ORS 759.405 is intended to limit the ability
28 of a telecommunications carrier to seek deregulation of telecommunications
29 services under ORS 759.052.

30 “(8)(a) Notice of a price change authorized under subsection (4) of this

1 section, of the introduction of a new regulated telecommunications service
2 or of the packaging of services, must be given to the commission within 30
3 days following the effective date of the price change, new service or pack-
4 aged service. Notice of a new regulated telecommunications service shall
5 indicate the retail price charged by the carrier for the service.

6 “(b) The commission may investigate any price change authorized under
7 subsection (4) of this section, the price of a new regulated telecommuni-
8 cations service or the price of a package of services to determine that the
9 price complies with the provisions of this section and any other applicable
10 law. If the commission determines that the price of the service or package
11 of services does not comply with the provisions of this section or other ap-
12 plicable law, the commission may order the telecommunications carrier to
13 take such action as the commission determines necessary to bring the price
14 into compliance with this section or other applicable law.

15 “(9) Nothing in this section affects the authority of a city or municipality
16 to manage the public rights of way or to require fair and reasonable com-
17 pensation from a telecommunications carrier, on a competitively neutral and
18 nondiscriminatory basis, under ORS 221.420[,] **and** 221.450[, *221.510 and*
19 *221.515*].

20 “(10) Notwithstanding any other provision of this section, the commission
21 shall establish prices for extended area service in a manner that allows a
22 telecommunications carrier that elects to be subject to this section and ORS
23 759.405 to recover all costs and lost net revenues attributable to implement-
24 ing new extended area service routes. The provisions of this subsection apply
25 to telecommunications service provided on a flat or measured basis between
26 exchanges defined by exchange maps filed with and approved by the com-
27 mission.

28 **“SECTION 4. This 2013 Act takes effect on the 91st day after the**
29 **date on which the 2013 regular session of the Seventy-seventh Legis-**
30 **lative Assembly adjourns sine die.”.**

