

Comments of Comcast
on the
Portland Broadband Strategic Plan
May 2011 Draft Report

A. Introduction

Comcast commends the City of Portland (“City” or “Portland”) and the Broadband Strategic Plan Leadership Team (“Leadership Team”) for producing a draft plan that not only recognizes, but acts upon, the essential link between next-generation broadband infrastructure and the success of Portland in the emerging network-based world. Establishing a strategic plan now—one that can provide the guide for future development while retaining the flexibility to adapt to continuing innovation—is as important as it is difficult.

The current draft of the Portland Broadband Strategic Plan (“the Draft Plan”) is a significant step towards a plan that will position Portland well for the future. The stated goals are commendable, and many aspects of the Draft Plan are well-written and forward-thinking. However, some of the particular strategies proposed in the current draft for achieving the stated goals should be revisited as these strategies are developed further in working groups. Comcast trusts that those working groups will allow affected constituencies, including providers of broadband infrastructure and services, such as Comcast, to offer constructive criticism and creative proposals to strengthen the Draft Plan’s Key Strategies in order to help achieve its ambitious goals. Comcast intends to participate in the working groups and committees contemplated in the Draft Plan and will work co-operatively with the City and the Leadership Team as Key Strategies are fleshed out and implemented.

Comcast appreciates the opportunity to assist the City with this challenging process. Comcast has considerable experience in deploying innovative broadband technologies in Oregon. Comcast uses advanced optical fiber in its growing broadband network. Comcast broadband customers enjoy a wide range of broadband services including high-speed Internet access, dedicated business services, and services provided to other carriers, including wholesale

interstate wireless backhaul. In addition, Comcast provides voice services to residential and business customers using Voice over Internet Protocol (“VoIP”). Comcast also offers customers a number of mobile Internet services, ranging from 3G services offered nationwide to High Speed to Go 4G services that Comcast launched nearly two years ago, right here in Portland. In addition, Comcast provides high capacity bandwidth in multiples of Gigabits for companies and organizations that need such bandwidth capacity. Comcast looks forward to a continuing partnership of innovation with Portland to develop a world-class range of broadband connectivity.

B. Comments on Specific Key Strategies for Achieving the Goals.

While Comcast generally supports the broadly-stated goals of the Draft Plan, certain of the Key Strategies and other recommendations for specific action contained in the Draft Plan raise concerns that will need to be addressed more fully by the working groups and committees tasked with comprehensive development of these strategies. The comments in this section are intended to provide certain specific recommendations in this regard and to reiterate Comcast’s intent to work closely with the City, the Leadership Team and select working groups and committees as the meat is placed on the bones of the Key Strategies for achieving the Draft Plan’s goals.

1. Key Strategies Should Reflect Data Demonstrating that Existing Infrastructure in Portland Provides Ubiquitous Broadband Access

Before addressing specific Key Strategies, Comcast wishes to correct an apparent misconception that appears throughout the Draft Plan. A number of proposals and even “Key Strategies” identified in the Draft Plan appear based on the assumption that currently deployed infrastructure within the City is insufficient to provide broadband to all Portland residents. That assumption is simply incorrect. Data from the Oregon Broadband Mapping Project shows that

there is not a single area within the City of Portland reporting “no broadband services available.” (Visit <http://broadband.oregon.gov/StateMap/index.html>, and click on the “No Service Reported” button under the “Coverage” section.) Comcast broadband alone reaches 100% of Portland’s residential areas, and the Broadband Mapping Project data shows that the entire City is served by no less than four broadband providers. The mapping data also demonstrates that not only are cable and DSL available throughout Portland, but that service delivered through fiber optic cable is available in the vast majority of the City. Portland does not lack access to broadband.

The National Broadband Map provided by the National Telecommunications and Information Administration (“NTIA”) in collaboration with the Federal Communications Commission (“FCC”), available at <http://www.broadbandmap.gov/>, confirms that Portland’s infrastructure is robust and able to reach the entire City. The data from that map shows that as of June 30, 2010, Portland residents of every age, income-tier, and education level had access to broadband with speeds of over 25 mbps (the highest tier of speed listed on the map). The NTIA map also shows that fiber optic cable connectivity extends all the way to end users not only throughout the urban core but in much of the residential portion of the City. Comcast invites the Leadership Team to invest additional time in analyzing this data, which shows ubiquitous access to broadband within the City limits.

2. The Key Challenges for Greater Broadband Adoption in Portland Concern Affordability and Education About Broadband’s Benefits, Not Access.

The data from both the Oregon and NTIA broadband maps demonstrates that infrastructure deployment in Portland is healthy. That does not mean that there is no more to be done. But each of the Key Strategies in the Draft Plan should reflect the fact that access and availability of broadband is already robust. The fact that access is ubiquitous today should be

acknowledged, not simply as a source of pride, but as a necessary data point for identifying and addressing the areas that need improvement, namely, issues of digital literacy and affordability that underlie the lack of universal broadband adoption in the City.

Affordability is an obstacle not only in Portland but throughout the State and nationwide. So is lack of education about broadband and its value to all individuals and businesses in today's global interconnected society. The FCC's National Broadband Plan specifically identifies the cost of broadband access for low-income households, the lack of an affordable computing device in the home, and the absence of digital literacy as obstacles to universal adoption of broadband.

The City has an important role to play in promoting awareness and educating all communities regarding the value of broadband. The City is well-positioned to initiate, influence and sponsor educational programs to ensure that the public understands the many benefits of broadband. It can also engage in direct promotional efforts aimed at making broadband attractive to all communities in Portland. The City can and should be a driving force in expanding digital literacy at the local level.

With respect to affordability, both public sector reforms at the federal level and private sector initiatives will likely have a significant impact on broadband adoption. For example, the FCC is currently working to address issues of broadband affordability through a comprehensive reform of the Universal Service program, including modifications to the Lifeline program. In addition, providers of broadband services are beginning to offer special pricing to qualifying low-income individuals. For example, Comcast has launched its own Internet Essentials Program to boost low-income use of broadband by partnering with school districts to offer families that qualify for free lunches under the National School Lunch Program \$9.95 per month broadband service, as well as basic digital literacy training and a high-quality computer for less

than \$150. Comcast has an important role to play in providing competitive pricing to all Portland customers while continuing to offer Portland early-access to its most innovative features.

Comcast recommends the Plan specifically call for the City and the Leadership Team to monitor the impact of these private and public sector affordability efforts on broadband adoption in Portland. Only if these efforts prove insufficient to improve adoption rates should the City contemplate developing targeted incentives or taxes (such as the proposed 1% universal service fee) to supplement the private sector and federal public sector programs.

3. The City Should More Fully Evaluate a “Dig Once” Policy Before Endorsing Such a Measure in the Plan.

The Draft Plan discusses a “dig once” policy that appears to suggest that the City would install conduit every time a company opens the streets for any purpose. Although this is not a formal “Key Strategy” in the Plan, “dig once” was raised repeatedly at the recent Industry Forum session held at City Hall on June 4, 2011, and appears to have support from certain constituencies. As explained below, the Draft Plan should not endorse this proposal without further study in the working groups and committees tasked with fleshing out the Key Strategies.

While the “dig once” policy has superficial appeal, there are numerous questions that should be addressed before the City decides whether to adopt such a policy. First and foremost, this policy appears to be based on an assumption that there is insufficient broadband infrastructure in Portland. As discussed above, this simply is not the case. Accordingly, the City must carefully analyze when and where additional conduit may be necessary, rather than simply adding conduit every time a street is opened. The Plan acknowledges that the City, the Oregon Department of Transportation and TriMet have a considerable amount of underutilized facilities in the City already. The City must make sure that adoption of a strict “dig once” policy does not

exacerbate this problem through excessive infrastructure deployment absent a firm grasp on demand. Private sector broadband providers such as Comcast are in a far better position than the City to project demand, and have proved willing and able to finance a network that already serves the entire City. A “dig once” policy that is not carefully constructed could disrupt a system of private funding that is already working.

Second, there are significant costs associated with opening the streets. Prior to adopting a “dig once” policy, the City must evaluate how costs will be equitably shared by any and all entities benefitting from the ability to add facilities to an open street.

Third, the discussion of the “dig once” policy in the Draft Plan seems to suggest that the City would be the entity adding conduit whenever a street is opened. This presumes that the City would be the most efficient provider in all instances. In fact, private sector participants may present more affordable options. Before adopting a “dig once” policy, the City should study whether some form of competitive bidding would be appropriate.

4. Prioritizing “Big Pipe” Capacity Should Be Pursued Aggressively, Including Assistance for High-Capacity Upgrades, Lower Building Entry Fees, and Commercial Access to Underutilized Public Assets.

In conjunction with Goal 1, Comcast generally supports the strategy of prioritizing so-called “big pipe” capacity. The plans for tax breaks, zoning and permit assistance, and construction assistance would facilitate additional private investment in the highest-capacity infrastructure where needed to serve a variety of industries that will increasingly rely on continuous network access to high-volumes of information. The plan to create an assistance program to help finance very high capacity infrastructure upgrades has merit and should be further developed through the working groups and committees. Comcast intends to participate in

these efforts. Comcast also strongly supports plans to drive down building entry fees to allow all broadband providers the opportunity to provide high-capacity broadband connectivity.

Comcast supports the proposal to make the existing publicly-owned underutilized fiber assets available to private sector service providers that can then provide lower-cost broadband services. The fact that public entities, including the City, Oregon Department of Transportation and TriMet, have “miles of fiber plant that is underutilized”¹ suggests that such public investments should be made available to providers that can link those resources to customer demand. But the City should not wait until 2020 to allow the public to benefit from opening up such publicly-owned infrastructure. Allowing fiber to remain “dark” or underutilized for another nine years is contrary to the Draft Plan’s overall goal of preparing for the future today. The City’s fiber assets and other underutilized public infrastructure should be opened as soon as possible so that the public may benefit from services built upon these assets.

5. Facilitating Marketplace Competition by Eliminating Anti-Competitive Taxation and Barriers to Building Access is Vital.

The third Key Strategy in conjunction with Goal 2, is to encourage marketplace competition. The Draft Plan expresses concern regarding an FCC finding in its National Broadband Plan that “broadband competition is both fragile and insufficient to keep pricing affordable....” Comcast agrees that facilitating marketplace competition is essential. Free market competition will require action by the City to help eradicate anti-competitive taxing provisions and reduce barriers to building access.

First and foremost, a level playing field can be established by taxing all providers equally, rather than the current system in which incumbent telephone companies, such as CenturyLink (formerly Qwest), pay no taxes on revenues derived from services provided over

¹ Draft Portland Broadband Strategic Plan, at 25.

broadband facilities while competitors like Comcast pay 5% on revenue from communications services provided over broadband facilities that compete directly with the incumbent telephone companies' non-taxed services.

Under ORS 221.515, cities in Oregon may only tax incumbent “telecommunications utilities” a privilege tax of no more than 7% of “gross revenues” for use of the public rights of way. This privilege tax statute defines these incumbent “gross revenues” as only “exchange access” revenues—which in turn is defined to include basic local telephone service only. There is no such similar limitation on privilege taxes that can be assessed on non-incumbent service providers, including Comcast. The City, through franchise agreements and utility license fees, assesses on non-incumbent providers a 5% tax on all “gross revenues” earned in the City. For non-incumbent providers, “gross revenues” is broadly defined to include revenues from all types of services. The practical effect of this tax policy is discriminatory treatment that provides the incumbent telephone company a tax incentive that is denied to its non-incumbent competitors. So long as taxation remains inequitable, competition will remain “fragile.” Such distorted competition will not only be “insufficient to keep pricing affordable,” but will be insufficient to advance broadband speeds as rapidly as would occur with fair competition.

Portland can rectify this inequity today by committing not to assess higher taxes/fees on competitive broadband providers like Comcast than it does on incumbent telephone companies. Doing so will make competition robust rather than fragile, and will result in fair competition that will ultimately result in higher quality services offered at lower prices. In addition, the City should throw its considerable weight behind efforts at the State Legislature to reform the privilege tax statute that lies at the heart of the discriminatory treatment of providers of similar services.

A second important step towards more effective competition—and lower prices—would be to ensure that competitive providers like Comcast are allowed to provide broadband services to office buildings and high-density housing on an equal basis, allowing customers to choose the most cost-effective provider for their needs, rather than the current system in which incumbent telephone companies typically enjoy monopoly-era advantages in serving such buildings.

The initial action steps in conjunction with Goal 2 offer hope of addressing the barriers to competition (and ultimately, affordability) identified above. The step of convening a planning committee with industry participants, which could address tax and fee issues as well as building access and utilization of public fiber assets, would be a positive step.² Comcast would welcome the opportunity to participate on such a committee.

C. Conclusion

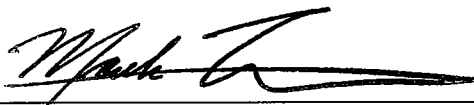
Portland is to be commended for producing one of the first municipal broadband strategic plans in the country. The overall goals of the Draft Plan are laudable, and Comcast trusts that its input regarding certain Key Strategies is received in the spirit of cooperation in which it is intended. The next steps in refining the Draft Plan should involve workshops that include the broadband infrastructure industry in order to gather additional feedback. The Leadership Team should also (1) look closely at the data on broadband in Portland that shows that remaining challenges concern affordability and adoption, not access and availability; and (2) act as soon as possible to rectify inequities in assessments on revenues of only certain providers and not others, including joining efforts to reform Oregon's discriminatory privilege tax statute. Direct provision of infrastructure or services by the City would be expensive and ultimately harm broadband development by harming market-based competition. The ideal approach is for the

² Portland Broadband Strategic Plan, at 26.

City to provide long-term vision, streamlined zoning and permitting, and a level playing field for competition, thereby allowing the market to adapt to continuing innovation to serve Portland's broadband needs. Comcast is enthusiastic about the prospects for success in achieving the goals set forth in the Draft Plan under such an approach, and looks forward to working cooperatively with the City to achieve that success.

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