



“The Power of Community”

**TESTIMONY OF TED CASE, EXECUTIVE DIRECTOR
OREGON RURAL ELECTRIC COOPERATIVE ASSOCIATION
HOUSE COMMITTEE ON ECONOMIC RECOVERY AND PROSPERITY
HB 2654
FEBRUARY 4, 2021**

Chair Lively, Vice-Chair Kropf, Vice-Chair Cate and Members of the Committee:

For the record, my name is Ted Case, and I am the Executive Director of the Oregon Rural Electric Cooperative Association. ORECA represents 18 electric cooperatives that serve over a half-million Oregonians with affordable, reliable, and nearly carbon-free electricity. But we are also focused on improving the quality of life for our members. And that is why ORECA supports HB 2654, which we believe is one of the most important and cost-effective measures the Oregon Legislature can take to bridge the digital divide in rural and frontier Oregon. We want to thank Reps. Marsh and Brock Smith for their leadership with this bill and appreciate Rep. Cate and Levy for cosponsoring HB 2654.

The pandemic has demonstrated that expanding the ability to work remotely, learn online, and perform telemedicine will be critical for Oregon in 2021 and beyond. However, as the Oregon Broadband Advisory Council (OBAC) noted in their recent report, our state has a significant digital divide: *“In general, Oregon’s urban areas are served by multiple broadband internet service providers at speeds of 25 Mbps download and 3 Mbps upload or better. Rural and frontier areas of the state are served by few providers and typically at slower speeds...or are unserved...Though the population of the state may be fairly-well served, the geography in total is not.”*

Oregon’s electric cooperatives serve many of the areas of the state where broadband is a luxury reserved for others in more populous areas. Nationwide, 6.3 million people in electric cooperative territory have no access to broadband. Oregon is served by a range of broadband providers and in some cases, Oregon’s electric cooperatives have established broadband subsidiaries or are exploring new lines of opportunities and partnerships in the broadband space. As the OBAC also stated, *“Rural electric cooperatives are viewed as an attractive and viable rural broadband solution...it is a solution that is in line with the history of cooperative utilities, which brought both electricity and telephone service to these territories many decades ago.”*

Our history is important to understand the context and importance of this legislation. In the 1930s, many parts of rural America and rural Oregon were without electric service

because there was no profit for power companies to serve low density areas. Rural Americans and rural Oregonians were told to be patient, that electricity was right around the corner. But they grew tired of waiting and created electric cooperatives in the 1930s and 40s to bring them out of an existence that was akin to living in the Dark Ages. Electric cooperatives built an extensive distribution system using easements to deliver electricity. However, these easements did not contemplate the use of telecommunications such as broadband.

The OBAC correctly recognized in their report that Oregon needs to reduce barriers to broadband infrastructure deployment, which includes the disposition of easements. Broadband providers have faced class action lawsuits in other states because the state easement law did not contemplate the use of easements for broadband services. A judgement in one Missouri case totaled nearly \$80 million. Without a doubt, the legal uncertainty for using easements for anything other than electricity delivery can serve as a major barrier for providing broadband services.

Moreover, the easement process is often cumbersome and costly for all broadband providers, serving as a major impediment to swift broadband deployment. For instance, Beacon Broadband – a new venture established by Coos-Curry Electric Cooperative – calculated that it would require \$1 million and 2,000 staff days to prepare easement documents along Oregon’s south coast. The Committee will also hear testimony from Douglas Fast Net, a subsidiary of Douglas Electric Cooperative, that will illuminate the daunting challenges broadband providers face each day to deploy broadband across remote landscapes.

HB 2654 strikes a careful balance of streamlining the easement process while protecting landowner rights, through timely and transparent notification. However, there is ongoing work with property rights organizations and other stakeholders to further strengthen landowner protections. The bill also provides an 18-month process for property owners to bring an action for damages relating to a decrease in property value.

I will note that the League of Oregon Cities requested an amendment to exempt themselves from provisions of this bill because the focus is on rural areas. Additional discussions are also occurring with our state’s investor-owned utilities about how HB 2654 works for their specific circumstances.

In conclusion, similar versions of this bill have passed in several state legislatures, including Arizona, Colorado, Georgia, Indiana, Missouri, and Pennsylvania, among others. My colleagues in other states have shared stories of how broadband providers, cable companies and electric cooperatives worked collaboratively for the benefit of their rural consumers. We hope we can have a similar experience this session because, just as it was nearly a century ago, rural and frontier Oregonians cannot wait any longer.

Thank you for the opportunity to testify. I would be happy to answer any questions.