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BEAVERTON FILES ANSWER WITH COUNTERCLAIMS TO COMCAST LAWSUIT REGARDING ROW FEES FOR COMMUNICATION SERVICES

BEAVERTON, Ore. – The City of Beaverton filed its answer and counterclaims in response to a lawsuit first filed by Comcast of Oregon II, Inc. (Comcast) on July 27, 2020. Comcast’s lawsuit challenges the City’s authority to assess and collect rights-of-way (ROW) fees lawfully owed to the city for Comcast’s use of the public right-of-way to provide voice and internet services.

The city’s counterclaims assert that the city’s laws regulate all private and public utilities that provide services under or around the public streets in Beaverton, including cable and communication services. The city assesses ROW fees for utilities located in the ROW, and the revenue from these fees helps manage and maintain the ROW for public use.

Comcast has unpaid ROW fees to the city estimated at more than \$3.75 million, which does not include penalties and interest. “This is a principle of fairness,” said Beaverton Finance Director Patrick O’Claire . “No corporation, no matter their size and status, is above the law.”

ROW fees have been in effect in Beaverton since the 1970s and are currently at five percent of gross revenue for most utilities. In 2016, the City of Beaverton updated its existing ROW ordinance to include communications services for voice and internet services, including those services that are being provided by cable providers within the city. Previously, cable providers only paid ROW fees for cable services, and not for the communications services they provide. All utility providers had until November 15, 2016, to comply with, and begin paying the communications services portion of the ROW fee that began on October 1, 2016.

While more than 40 other independent communications providers in the ROW began complying with the city’s regulations, Comcast did not begin paying the ROW for its communications services until more than two years later. In July 2019, Comcast chose to start adding the ROW fee for the communications services it provides to its bills as a pass-through charge to its customers. Then Comcast began making payments to the city for the communication services it provides using the city’s ROW, making it compliant with the city’s ROW ordinance going forward.

However, Comcast still owes the city ROW fees for voice and internet services provided in the city from October 2016 to June 2019 before Comcast became compliant. “All companies must pay their fair share in supporting the city’s right of way infrastructure that allows their entities to operate,” continued Beaverton Finance Director Patrick O’Claire. “We have a

responsibility to seek unpaid fees and to enforce ordinances fairly and uniformly for the benefit of our residents and like Oregon cities.”

ROW fees are in effect and used similarly by a number of cities throughout the region. The city’s ROW ordinance and additional information is available at www.beavertonoregon.gov/1822/Rights-of-Way.

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