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## The Ohio Senate Government Oversight and Reform Committee

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Testimony on Sub. H.B. 96 – Interest Party

### RE: (PUCDD9) Broadband internet access service exempt from regulation

Chair Manchester, Vice Chair Brenner, Ranking Member Weinstein, and Members of the Committee, Thank you for the opportunity to testify on Sub. House Bill 96 (PUCDD9), which exempts broadband internet access service from regulation. My name is Patrick Ginnetti and I am the Mahoning County Engineer and Past President of County Engineers Association of Ohio. Today, I speak not only as a representative of Mahoning County and the County Engineers Association of Ohio but as an advocate for responsible infrastructure management, public safety, and local government accountability.

Broadband expansion is vital for Ohio's future—but it must be done thoughtfully. While we all share the goal of connecting every corner of the state, that ambition should not come at the expense of transparency, clarity, or community safety.

### Concerns with the Current Language

Sub. H.B. 96 (PUCDD9) stipulates that broadband service is not subject to regulation by the Public Utilities Commission and prohibits state and local entities from enacting or enforcing any law that treats broadband providers as utilities or telecommunications carriers.

However, the bill fails to resolve critical legal uncertainties:

- It does not specify whether broadband providers qualify as utilities under Ohio law.
- It leaves unclear their rights within public highway easements.
- It does not determine whether work in public rights-of-way constitutes legitimate highway use.

This ambiguity has significant real-world consequences.

### Impact on Counties and Local Governments

1. **Loss of Oversight in the Right-of-Way** The language in the bill broadly prohibits local regulation “having the force of law,” removing a county engineer’s ability to require permits, enforce safety standards, mandate restoration protocols, or even require advance notice before a broadband provider enters the right-of-way. These are not bureaucratic hurdles but essential safeguards for public infrastructure and safety.
2. **No Mechanism for Accountability** If PUCO cannot regulate broadband providers and local governments cannot enforce standards, what happens when a provider damages a road, disrupts utilities, delays projects, neglects maintenance, or leaves unsafe conditions behind? Under the current language, there is no system for accountability, reimbursement, or compliance—an unacceptable oversight.

3. **Legal Ambiguity Creates Conflict** Additionally, it does not clarify whether broadband providers have a legal right to access highway easements or whether their infrastructure qualifies as a highway use. This omission invites legal disputes and unnecessary friction between private companies and public agencies, delaying projects, inflating taxpayer costs, and undermining long-term planning.

Without clear guidelines, broadband providers may assert entitlement to easement access while local governments lose the authority to regulate it. This could lead to uncoordinated utility work, project delays, unforeseen costs, and compromised right-of-way integrity.

## A Practical, Balanced Solution

Rather than hindering broadband expansion, our proposed amendment aligns it with the same basic safeguards applied to other utilities. It:

- Ensures broadband providers are not subject to PUCO rate regulation, consistent with federal law.
- Confirms broadband providers are not utilities under Chapter 4905 of the Revised Code but must still adhere to right-of-way oversight.
- Protects local government authority to require permits, enforce safety standards, and recover costs from damages or disruptions.
- Eliminates assumptions about easement access, requiring explicit permission or legal authority.
- Establishes depth, placement, notification, and traffic safety requirements to coordinate infrastructure efforts and prevent conflicts.

This amendment ensures broadband expansion strengthens communities without undermining the roads, bridges, and systems they rely on.

## Conclusion

Sub. H.B. 96 (PUCCD9) aims to modernize broadband regulation, but without our amendment, it introduces ambiguity, weakens local oversight, and increases risks across Ohio. Let's refine the language, protect our public right-of-way, and ensure broadband deployment is efficient, responsible, and aligned with local government interests—not at their expense.

Thank you for your time and consideration. I welcome any questions.

**Comprehensive amendment to Sub. HB 96:**

1. Preserves the legislature's intent to exempt broadband from PUCO rate regulation;
2. Clarifies broadband's legal status;
3. Protects the authority of county engineers and local governments to manage right-of-way (ROW) access;
4. Addresses the legal ambiguity that has led to litigation, safety issues, and enforcement gaps.

**Issues Addressed in This Amendment:**

Issue Raised	Addressed By
Is broadband a utility?	Clarifies broadband is <i>not</i> a utility under 4905 but still subject to ROW oversight.
Is anyone regulating them?	No PUCO rate authority, but local ROW regulation is preserved.
Can they be in the ROW?	Only by permit; not assumed; not a highway use.
Can counties charge fees?	Yes — clarifies ability to charge fees for occupancy, inspection, restoration.
Do we have standards like other states?	Yes — requires compliance with location, depth, safety standards.
No enforcement tools if not regulated	Grants enforcement authority to local governments via permits.
Confusion over easement use / lawsuits	Removes presumption that broadband = highway use or access right.

**Proposed New Section – R.C. 4927.22 (amendment insertion after line 83918 of Sub. H.B. No. 96):**

**Sec. 4927.22.**

(A) Notwithstanding any provision of the Revised Code, other than division (B) of this section:

(1) Broadband internet access service shall not be subject to rate regulation by the public utilities commission, consistent with federal law.

(2) Broadband internet access service providers shall not be deemed public utilities under Chapter 4905. of the Revised Code solely by virtue of providing broadband services; however, nothing in this section shall exempt such providers from compliance with lawful requirements regarding use or occupancy of public rights-of-way.

(3) Nothing in this section shall be construed to impair or preempt the lawful authority of a county, township, or municipal corporation to regulate, manage, or condition the use of public rights-of-way or highway easements under their jurisdiction, including requiring permits, inspections, restoration, maintenance obligations, location standards, fees related to ongoing occupancy, or enforcement of safety and traffic control standards.

(4) Use of public rights-of-way or highway easements for broadband infrastructure shall not be presumed a transportation or highway use, nor shall this section be construed to grant any new property rights or easement access to broadband providers that are not expressly authorized by law, agreement, or valid permit.

(5) All entities constructing, installing, or maintaining broadband infrastructure within public rights-of-way must adhere to applicable local and state permitting standards, including requirements for construction depth, above- and below-ground placement, traffic management, damage prevention, and coordination with Ohio's One-Call notification system under R.C. Chapter 3781.

(B) This section shall not be construed to:

(1) Restrict the authority of the public utilities commission or any other state agency to administer state or federal grant programs or infrastructure deployment initiatives;

(2) Limit the application of any generally applicable laws related to consumer protection, business conduct, or fair competition;

(3) Exempt broadband providers from enforcement actions for damages, safety violations, or failure to comply with engineering or restoration standards within the public right-of-way.