

**BEFORE THE BOARD OF COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON**

ORDINANCE NO. 2018-006

**AN ORDINANCE AMENDING THE COUNTY CODE (ORDINANCE NO. 2018-004) BY
CREATING CHAPTER 5.30, REGULATION OF UTILITY RATES AND FEES**

WHEREAS, Josephine County has provided for a new organization of its codes and ordinances that is pending adoption; and

WHEREAS, the Charter of Josephine County and state law provide the County with all the authority necessary to regulate its affairs, consistent with the Constitutions and laws of the United States and the State of Oregon; and

WHEREAS, included in the County's authority is the authority to regulate public utilities within the County, including their provision of services and their rates and fees; and

WHEREAS, it appears that public utilities may attempt to install new types of meters to measure the use or consumption of electricity by individual rate-paying customers of the utility; and

WHEREAS, it appears that electric utilities may attempt to impose an additional fee for those customers who opt not to accept the new meter types; and

WHEREAS, this issue is of particular concern for the citizens of Josephine County and for their elected representatives; now, therefore,

The Board of County Commissioners of Josephine County ordains as follows:

SECTION 1.00 TITLE

This ordinance shall be known as the Josephine County Utility Regulation Ordinance.

SECTION 2.00 CODIFICATION

This ordinance shall be codified in the newly organized code as JCC 05.30.01, entitled "Prohibition of opt-out fees by utility provider."

SECTION 3.00 PURPOSE AND INTENT

The purpose of this ordinance is to protect the citizens of Josephine County from arbitrary and excessive fees imposed by the providers of electric utility services.

SECTION 4.00 DEFINITIONS

For the purposes of this ordinance;

- A. Public Utility Commission means the Public Utility Commission of the State of Oregon.
- B. Provider, utility or public utility mean an entity whose operation is regulated by the Public Utility Commission and that is engaged in providing electricity or electric service to rate-paying consumers, whether residential, commercial or industrial.
- C. Op-out fee means a fee, charge, assessment, or other monetary payment required of a consumer by a utility when the consumer refuses or declines to accept a new so-called “smart meter” installed to measure the consumer’s usage of electricity.

SECTION 5.00 AUTHORITY

The Board of Commissioners of Josephine County has authority to regulate matters of county concern within the county, under the provisions of the Constitution of the State of Oregon, the statutes of the State of Oregon, and the Charter of Josephine County.

SECTION 6.00 PROHIBITED ACTIONS

- 6.01 No public utility, or any other entity whose operations are regulated by the Public Utility Commission, shall assess, charge, require or collect any opt-out fee or any other charge, fee or assessment of any kind based upon or related to the fact that a consumer of electric service refuses or declines to accept a “smart meter” to measure the consumption of electricity.
- 6.02 If the utility has installed a “smart meter” prior to the effective date of this ordinance and the consumer whose service is affected by that “smart meter” demands that the utility remove the meter, the utility must remove the “smart meter” and replace it with a non-radio frequency meter within thirty (30) days after receiving the demand. The consumer shall have ninety (90) days after the effective date of this ordinance to make the demand, in writing, to the utility.
- 6.03 The utility must work to institute alternative reading or reporting methods for consumers who request such services.

SECTION 7.00 PENALTIES

Each violation of the terms or provisions of this ordinances is a Class A violation, the fine for which is \$2000.00 for each such violation. Each assessment, charge, or fee is a separate violation, even if assessed against a single consumer.

SECTION 8.00 SEVERABILITY

In the event that any part or portion of this ordinance is found to be invalid or unenforceable, all remaining parts remain in full force and effect. The titles of sections

or subsections in this ordinance are provided for reference only and are not part of this ordinance nor an expression of intent.

SECTION 9.00 **EFFECTIVE DATE**

First reading by the Board of County Commissioners this 17th day of October, 2018.

Second reading and adoption by the Board of County Commissioners at least thirteen days after the first reading this ____ day of _____, 2018. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Daniel E. DeYoung, Chair

Lily N. Morgan, Vice Chair

Simon G. Hare, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Wally Hicks, Legal Counsel