

MAINE STATE LEGISLATURE

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DATE: 4-4-01

(Filing No. H- 93)

UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 146, L.D. 157, Bill, "An Act to Clarify Marketing Standards for Telephone Utilities and Competitive Electricity Providers"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 35-A MRSA §3203, sub-§6, as enacted by PL 1997, c. 316, §3, is amended to read:

6. Consumer protection standards; rules. The commission shall establish by rule consumer protection standards and standards to protect and promote market competition in order to protect retail consumers of electricity from fraud and other unfair and deceptive business practices. Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, the commission may provide by rule that a competitive electricity provider may satisfy the requirements of subsection 4-A, paragraph A by obtaining from the customer oral authorization obtained by an independent 3rd party.

Sec. 2. 35-A MRSA §7106, sub-§1, ¶A, as enacted by PL 1997, c. 702, §1, is amended to read:

A. Except Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, subsection 4, and except as otherwise provided by the commission by rule adopted pursuant to subsection 3, no a local or intrastate interexchange carrier may not initiate the change of a customer's local or intrastate carrier unless the change is verified by one of the following methods:

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(1) Written authorization from the customer;

(2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or

(3) Oral authorization obtained by an independent 3rd party.

Sec. 3. 35-A MRSA §7107, sub-§6, as enacted by PL 1999, c. 59, §1 and affected by §3, is amended to read:

6. Rulemaking. The commission shall adopt rules to implement this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Rules adopted by the commission must at least:

A. Establish clear standards for interpreting and applying the state-of-mind standard applicable to billing agents who bill on behalf of service providers not properly registered with the commission;

B. Define types of evidence that constitute sufficient evidence of customer authorization in a manner that imposes the least economic and technical burdens on customers and service providers; and

C. With regard to direct-dialed telecommunications services, provide that evidence that a call was dialed from the number that is the subject of the charge is sufficient evidence of authorization for the charge for that call.

Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, subsection 4, rules adopted by the commission pursuant to paragraph B may define "sufficient evidence of customer authorization" to include oral authorization obtained by an independent 3rd party.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Public Utilities Commission will incur some minor additional costs to adopt rules providing that a competitive utility provider may satisfy the requirement of having a consumer's authorization before providing service by obtaining oral authorization from the customer obtained by an independent third party. These costs can be absorbed within the commission's existing budgeted resources.'

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SUMMARY

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6 This amendment replaces the bill. This amendment removes a
8 conflict of laws. Under this amendment, current provisions of
10 law and implementing rules regulating the sale of electricity and
12 the telephone practices known as "slamming" and "cramming" are
14 exempted from the provision of the consumer solicitation sales
16 law that requires a consumer's written authorization to
18 consummate certain sales made in person or over the phone. Under
20 current provisions of law and implementing rules regulating the
sale of electricity and the telephone practices known as
"slamming" and "cramming," oral authorization obtained by an
independent 3rd party and, in the case of the law regulating
slamming, toll-free electronic authorization are also permitted.
This amendment preserves these provisions. Other provisions of
the consumer solicitation sales law continue to apply in all
these contexts. The amendment also adds a fiscal note to the
bill.