

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 1227**

H. P. 1017

House of Representatives, March 10, 1981

Referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative McKean of Limestone (By Request).

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT Relative to the Jurisdiction of the Public Utilities Commission over Nonutility Attachments to Public Utility Plant.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 35 MRSA § 15, sub-§ 2-A is enacted to read:

**2-A. Attachment.** "Attachment" means any wire or cable for the transmission of intelligence, including, but not limited to, cable television, telegraph or telephone and any related device, apparatus, appliance or equipment owned by a nonutility and installed upon any pole or in any duct or conduit owned or controlled, in whole or in part, by one or more public utilities.

Sec. 2. 35 MRSA § 15, sub-§ 9-A is enacted to read:

**9-A. Licensee.** "Licensee" includes every corporation or person, other than a public utility, which is authorized to construct lines or cables upon, along, under and across the public ways.

Sec. 3. 35 MRSA § 257 is enacted to read:

**§ 257. Authority to regulate rates, terms and conditions applicable to attachments by licensees.**

**The commission shall regulate the rates, terms and conditions applicable to attachments by licensees, and in so doing shall be authorized to consider and shall**

**consider the interest of subscribers of cable television services and subscribers of other licensees as well as the interest of consumers of public utility services; and upon its own motion or upon petition of any public utility or licensee, the commission shall determine and enforce just and reasonable rates, terms and conditions of use of poles or of ducts or conduits of a public utility for attachment of a licensee.**

#### STATEMENT OF FACT

Public law 95-234, effective February 21, 1978, entitled Communications Act Amendments of 1978 provided, in part, that the Federal Communications Commission should regulate the rates, terms and conditions for pole attachments to public utility poles, ducts and conduits with particular reference to cable television service. The Act further provides that the Federal Communications Commission shall not have jurisdiction where a state can certify to the Federal Communications Commission that: The State regulates the rates, terms and conditions; and in so regulating the rates, terms and conditions the State has the authority to consider and does consider the interest of the subscribers of cable television service as well as the interest of the consumers of the public utility services. The purpose of this bill is to clearly confer upon the Public Utilities Commission jurisdiction in this area and allow the commission to certify its jurisdiction to the Federal Communications Commission and allow the Public Utilities Commission to resolve any disputes that may exist between public utilities and nonpublic utilities seeking attachment rights. This bill will clearly place the jurisdiction in these matters at the state level where it belongs.