

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 FIRST REGULAR SESSION  
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4 ONE HUNDRED AND TWELFTH LEGISLATURE  
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6 Legislative Document

No. 1257

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8 S.P. 454

In Senate, April 4, 1985

9 Referred to the Committee on Utilities. Sent down for concurrence and  
10 ordered printed.

11 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Matthews of Kennebec.

12 Cosponsored by Representative Connolly of Portland and Representative  
Handy of Lewiston.

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13 STATE OF MAINE  
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15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
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18 AN ACT to Preserve Affordable Flat  
19 Rate Local Telephone Service.  
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21 **Emergency preamble.** Whereas, Acts of the Legis-  
22 lature do not become effective until 90 days after  
23 adjournment unless enacted as emergencies; and

24 Whereas, the Public Utilities Commission has or-  
25 dered mandatory measured service for local telephone  
26 calls effective July 1, 1985; and

27 Whereas, the decision by the Public Utilities  
28 Commission concerns broad questions of public policy  
29 regarding the effects of local mandatory measured  
30 service on Maine businesses and individuals; and

31 Whereas, the Public Utilities Commission has  
32 changed, without sufficient inquiry, the way in which  
33 local telephone service has been billed for many dec-  
34 ades in Maine; and

1           Whereas, in the judgment of the Legislature,  
2 these facts create an emergency within the meaning of  
3 the Constitution of Maine and require the following  
4 legislation as immediately necessary for the preser-  
5 vation of the public peace, health and safety; now,  
6 therefore,

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

9           35 MRSA §107 is enacted to read:

10       §107. Mandatory measured service

11           1. Affordable flat rate service. The Public  
12 Utilities Commission shall establish rates and rate  
13 structures for telephone companies which will pre-  
14 serve reasonably affordable flat rate service allow-  
15 ing for unlimited local exchange calling for a single  
16 monthly fee as the standard phone service in the  
17 State for both business and residential customers.  
18 Flat rate service with unlimited local calling shall  
19 be described by the telephone company as the "stan-  
20 dard" service in all its communications with the pub-  
21 lic and the Public Utilities Commission. Any other  
22 local calling service shall be described as an "op-  
23 tional" service.

24           2. Measured service and lifeline options. The  
25 Public Utilities Commission, in the exercise of its  
26 discretion, may approve a telephone rate structure  
27 which allows for a limited local measured service op-  
28 tion, provided that the rate structure for a local  
29 measured service option does not jeopardize reason-  
30 ably affordable flat rate service allowing for unlim-  
31 ited calling. Any local measured service rate struc-  
32 ture which is universally available within a given  
33 geographic area shall be designed by the public ser-  
34 vice commission so that local measured service cus-  
35 tomers cover the costs of the service in the same  
36 manner as flat rate customers and are not subsidized  
37 by rates charged to flat rate customers. The Public  
38 Utilities Commission, in furtherance of the goal of  
39 universal service, may establish a means tested  
40 lifeline local measured service option which will on-  
41 ly be available to those who qualify under income

1 guidelines established by the Public Utilities Com-  
2 mission. Any means tested lifeline local measured  
3 service rate structure shall be reasonably related to  
4 the costs of service and shall not unreasonably bur-  
5 den other classes of customers.

6 3. Reports. Each telephone company which has in  
7 effect a limited local measured service option or  
8 means tested local measured service option shall re-  
9 port to the Public Utilities Commission, in each re-  
10 quest for a rate increase, the number of customers,  
11 both business and residential, who have standard flat  
12 rate service and any local measured service option  
13 and how many of those customers switched or initiated  
14 a local measured service option in the last calendar  
15 year or from the time data was last presented to the  
16 commission in a preceding rate case, if more than one  
17 year has lapsed since the data was last presented to  
18 the commission.

19 4. Standard. In any action brought in the courts  
20 of this State by the Public Advocate, or other inter-  
21 ested party with standing, to review the reasonable-  
22 ness and lawfulness of a telephone rate structure ap-  
23 proved by the Public Utilities Commission, it shall  
24 be presumed that any rates or rate structure which  
25 results in less than 2/3 of the business or residen-  
26 tial customers maintaining standard flat rate service  
27 is in violation of subsection 1, requiring the Public  
28 Utilities Commission to establish a rate structure  
29 which will preserve reasonably affordable flat rate  
30 service. The presumption established in this subsec-  
31 tion may be overcome by clear and convincing evidence  
32 that no reasonable alternative rates or rate struc-  
33 ture could be implemented which will maintain 2/3 of  
34 both business and residential customers as standard  
35 flat rate customers.

36 5. Cost allocation. When presenting evidence to  
37 the Public Utilities Commission concerning the costs  
38 of telephone services, the telephone company shall  
39 employ a cost methodology which allocates nontraffic  
40 sensitive costs among all the company services which  
41 benefit from those costs including, but not limited  
42 to, local and long-distance services. Nontraffic sen-  
43 sitive costs shall be considered common costs. The  
44 common costs shall be allocated on the basis of a

1 reasonable assessment of each class's responsibility  
2 for the incurrence of those costs, provided that  
3 long-distance services are to be considered with local  
4 service as causing those costs associated with  
5 the local exchange subscriber loop. The Public Utilities  
6 Commission may prescribe a formula for assessing  
7 common costs to categories of service to be used by  
8 the telephone company in developing its costing  
9 methodology. There shall be a rebuttable presumption  
10 that toll services shall account for at least 50% of  
11 the common costs of the local exchange subscriber  
12 loop unless the commission determines, by clear and  
13 convincing evidence, that such an allocation of costs  
14 will be unreasonable.

15 6. Access charges. Notwithstanding any other  
16 provision of this section to the contrary, the Public  
17 Utilities Commission shall not impose any end user  
18 common line charges or other access charges on end  
19 users. All access charges shall be assessed against  
20 long-distance carriers. Access charge rate levels  
21 shall be sufficient to preserve reasonably affordable  
22 standard flat rate service as provided for in this  
23 section.

24 7. Bypass. The Public Utilities Commission may  
25 assess a surcharge on any business which bypasses the  
26 local subscriber loop for either local or  
27 long-distance telecommunications services. The amount  
28 of the surcharge shall be reasonably related to the  
29 contribution to maintaining the telephone system  
30 which would have been made had there been no bypass  
31 and the cost of stranded capital investment of the  
32 local telephone company as a result of the bypass.  
33 The Public Utilities Commission shall impose a  
34 surcharge for bypass when it finds that bypass has  
35 become a significant threat to the maintenance of  
36 reasonably affordable standard flat rate service. The  
37 Treasurer of State shall, at the direction of the  
38 Public Utilities Commission, establish a "Universal  
39 Service Fund," and shall receive for deposit in the  
40 fund any money ordered by the Public Utilities Com-  
41 mission to be paid into it by businesses engaged in  
42 bypass. Any business which engages in bypass shall  
43 make a report to the Public Utilities Commission upon  
44 completion of its bypass system and shall thereafter  
45 make an annual report in a manner prescribed by the

1 commission as to the nature and extent of its bypass  
2 system. Any telephone company who serves businesses  
3 with bypass systems shall provide in each request to  
4 increase rates quantification of the stranded capital  
5 investment and the contribution that it estimates is  
6 being lost as a result of the bypass of its telephone  
7 system. The Public Utilities Commission shall, in  
8 furtherance of the goals of universal service and  
9 maintenance of reasonably affordable flat rate ser-  
10 vice, determine the payments to be made from the Uni-  
11 versal Service Fund. Nothing in this section may be  
12 construed to entitle any telephone company with com-  
13 ensation for lost profits as a result of bypass of  
14 its telephone system.

15 8. Jurisdiction. The Public Utilities Commission  
16 shall have jurisdiction over any call which origi-  
17 nates and terminates in the State, even if the call  
18 is transmitted through an interstate network, and the  
19 commission shall also have jurisdiction over any car-  
20 rier which originates and terminates the calls in the  
21 State.

22 Emergency clause. In view of the emergency cited  
23 in the preamble, this Act shall take effect when ap-  
24 proved.

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STATEMENT OF FACT

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Because of the breakup of American Telephone and Telegraph, the fear of bypass, and the Public Utilities Commission recent decision in the New England Telephone case, local telephone users are being shouldered with an unfair burden of the cost of telephone service.

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The fairest solution to maintain affordable telephone service is to allocate the fixed costs of telephone service evenly between local and long-distance users and to take steps to ensure that universal service is maintained.

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This bill is designed to provide reasonably affordable flat rate service and to establish a means tested lifeline measured service option. The bill also ensures that long-distance and other services pay their fair share of the fixed cost of providing telephone service.

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This bill adds a new section to the Maine Revised Statutes, Title 35, which redefines standard service, establishes a lifeline service, institutes an annual reporting requirement, limits the percent of customers who could be using optional local measured service, splits fixed costs between local and long-distance and other services, bans end user charges, provides the Public Utilities Commission with the power to impose surcharges upon bypass users and establishes the Public Utilities Commission authority over any calls that begin and end in the State.

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This bill is modeled on a draft presented in Missouri, which has been endorsed by the Missouri Governor.

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