

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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No. 1406

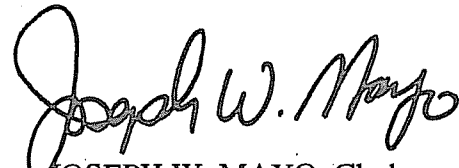
H.P. 1054

House of Representatives, May 3, 1993

An Act Pertaining to Pole Attachment Rate Disputes.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Utilities suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CASHMAN of Old Town.
Cosponsored by Representatives: CLARK of Millinocket, KONTOS of Windham, MORRISON of Bangor, PARADIS of Augusta, ZIRNKILTON of Mount Desert, Senators: CARPENTER of York, DUTREMBLE of York.

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

2
3 **Sec. 1. 35-A MRSA §711**, as enacted by PL 1991, c. 708, §1, is
4 amended to read:

6 **§711. Joint use of equipment**

8 **1. Joint use permitted.** The commission may order that
9 joint use be permitted and prescribe reasonable compensation and
10 reasonable terms and conditions for the joint use when, after a
11 hearing had upon its own motion or upon complaint of a public
12 utility ~~or cable television system~~ affected, it finds the
13 following:

14 A. That public convenience and necessity require the use by
15 one public utility ~~or cable television system~~ of the
16 conduits, subways, wires, poles, pipes or other equipment,
17 or any part of them, on, over or under any street or highway
18 and belonging to another public utility ~~or cable television~~
19 ~~system~~;

22 B. That joint use will not result in irreparable injury to
23 the owner or other users of the conduits, subways, wires,
24 poles, pipes or other equipment or in any substantial
25 detriment to the service; and

26 C. That the public utilities ~~or cable television system~~
27 have failed to agree upon the use or the terms and
28 conditions or compensation for the use.

30 **2. Liability of user.** If joint use is ordered, the public
31 utility ~~or cable television system~~ to whom the use is permitted
32 shall be is liable to the owner or other users of the conduits,
33 subways, wires, poles, pipes or other equipment for damage that
34 may result from its use to the property of the owner or other
35 users.

38 **3. Interests of utilities customers.** Any actions taken or
39 orders issued by the commission under this section shall must
40 take into account the interests of the subscribers ~~of the~~
41 ~~affected cable television system, as well as the~~ customers of the
42 affected public utilities.

44 ~~4. Rules. The commission shall adopt a rule governing the~~
45 ~~resolution of pole attachment rate disputes. The commission~~
46 ~~shall consider various formulas, including, but not limited to,~~
47 ~~the formula adopted by the Federal Communications Commission as~~
48 ~~codified in 47 Code of Federal Regulations, Part 1, Subpart J, as~~
49 ~~amended.~~

2 **Sec. 2. 35-A MRSA §2518, sub-§1,** as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

4 **1. Municipality may order joint use of poles.** Subject to
the provisions of ~~sections~~ section 711 and 8302, the municipal
6 officers may, after notice and hearing, order any wires used for
conveying electric current or the transmission of telephone or
8 telegraph messages and attached to poles located in a public
street or way of the municipality to be removed and attached to
10 other poles, however owned and controlled, legally located in the
public streets or ways, as the municipal officers may designate,
12 provided in their judgment the change is practicable and can be
made without unreasonably interfering with the business of any
14 person. The municipal officers may establish such regulations as
they determine necessary for the joint use of the poles.

16 **Sec. 3. 35-A MRSA §8302,** as enacted by PL 1987, c. 141, Pt.
18 A, §6, is repealed.

20
22 **STATEMENT OF FACT**

24 This bill transfers the jurisdiction for settling pole
attachment rate disputes from the Public Utilities Commission to
26 the Federal Communications Commission. This transfer of
jurisdiction will relieve the Public Utilities Commission of an
unnecessary burden and workload. Approximately 40 states
28 currently utilize this approach to resolving pole attachment rate
disputes. Application of the Federal Communications Commission
30 formula provides for uniformity and predictability in
establishing pole attachment rates and helps to avoid litigation.