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L.D. 1947

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**UTILITIES**

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**STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 726, L.D. 1947, Bill, "An Act to Establish an Alternative Form of Telecommunications Regulation in the State"

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

'Sec. 1. 35-A MRSA §7101, sub-§3, as enacted by PL 1993, c. 410, Pt. 000, §1, is amended to read:

3. Report. The commission shall provide to the joint standing committee of the Legislature with having jurisdiction over utility matters and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters a report on the status of the telecommunications industry in Maine the State no later than December 31, 1994. The report must include the following:

A. The extent to which the dual communications policy goals of universal service and economic development are being achieved;

B. The actions taken by the commission to further these goals, including the status of any alternative approaches to regulation; and

C. Recommendations for legislation.

Sec. 2. 35-A MRSA c. 91 is enacted to read:

**COMMITTEE AMENDMENT**

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CHAPTER 91

ALTERNATIVE FORM OF REGULATION OF  
TELECOMMUNICATIONS SERVICES

§9101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Alternative form of regulation. "Alternative form of regulation" means a form of regulation that includes, but need not be restricted to, the use of any index, formula, rate-stability plan, range-of-freedom plan or other streamlined form of regulation or deregulation of services or entities when regulation is not required to protect the public interest or to accomplish the specific objectives set forth in this chapter.

§9102. Adoption of alternative form of regulation

The commission may adopt, after public hearings and other processes the commission determines appropriate, an alternative form of regulation for any telephone utility in the State. The alternative form of regulation must conform to the requirements of chapters 71, 73, 75, 87 and 89, but need not conform with chapter 3 to the extent that the provisions of chapter 3 require the use of rate-base, rate-of-return or any other specific form of regulation of the rates of a telephone utility or to the extent that the provisions of chapter 3 give any party, including the telephone utility, the right to petition to change rates for telecommunications services. This chapter may not be construed to limit the authority of the commission under section 1322.

§9103. Conditions of alternative form of regulation

Unless the commission specifically finds that the following objectives are not in the best interests of ratepayers, the commission shall ensure that any alternative form of regulation it adopts under section 9102 is consistent with the following objectives.

1. Alternative regulation; period. For the period of the alternative form of regulation, which may not be less than 5 years nor exceed 10 years without affirmative reauthorization by the commission, ratepayers as a whole, and residential and small business ratepayers in particular, may not be required to pay more for local telephone services as a result of the implementation of an alternative form of regulation than they would under traditional rate-base or rate-of-return regulation.

2 2. Costs. The costs of regulation of telephone utilities  
must be less under the alternative form of regulation than under  
rate-base or rate-of-return regulation.

4  
6 3. Mandates. The alternative form of regulation preserves  
the ability of the commission to ensure that all legislative and  
commission mandates directed to the telephone utility are  
8 properly executed.

10 4. Safeguards. The alternative form of regulation must  
provide adequate safeguards to ensure that risks associated with  
12 the development, deployment and offering of telecommunications  
and related services offered by the telephone utility, other than  
14 local telephone services, are not borne by the local telephone  
service subscribers of the telephone utility and that the utility  
16 continues to offer a flat-rate, voice-only local service option.

18 5. Reasonable charges. The alternative form of regulation  
must ensure that customers pay only reasonable charges for local  
20 telephone services.

22 6. Reasonable return. The alternative form of regulation  
must ensure that the telephone utility has, over the period of  
24 the alternative form of regulation, a reasonable opportunity to  
earn a fair return on the investment necessary to provide local  
26 telephone services.

28 7. Encourage telecommunications services. The alternative  
form of regulation must encourage the development, deployment and  
30 offering of new telecommunications and related services in the  
State.

32  
34 8. Nondiscriminatory charges. The alternative form of  
regulation must ensure that another telephone utility pays the  
telephone utility providing local telephone service reasonable  
36 and nondiscriminatory charges for any service used by the other  
telephone utility to provide its competing service.

38  
40 9. General safeguards. The alternative form of regulation  
must include consumer and competitive safeguards.

42 **§9104. Implementation**

44 The commission may adopt an alternative form of regulation  
under the following conditions.

46  
48 1. Completion by May 15, 1995. If the commission concludes  
a proceeding adopting an alternative form of regulation pursuant  
to section 9102 on or before May 15, 1995, the rule or order  
50 adopting the alternative form of regulation takes effect 90 days

2 after the adjournment of the First Regular Session of the 117th  
3 Legislature.

4 2. Completion by February 1, 1996. If the commission fails  
5 to complete a proceeding adopting an alternative form of  
6 regulation pursuant to section 9102 on or before May 15, 1995,  
7 the commission must conclude any proceeding it undertakes to  
8 adopt an alternative form of regulation under that section by  
9 February 1, 1996. Any rule or order providing for an alternative  
10 form of regulation adopted after May 15, 1995 takes effect 90  
11 days after the adjournment of the Second Regular Session of the  
12 117th Legislature.

14 3. Report to Legislature. The commission shall submit a  
15 report by May 16, 1995 to the joint standing committee of the  
16 Legislature having jurisdiction over utility matters on the  
17 status of any proceedings it has undertaken under this chapter  
18 and must submit any rule or order the commission has adopted in  
19 accordance with subsection 1. The commission shall submit a 2nd  
20 report by February 2, 1996 to the joint standing committee of the  
21 Legislature having jurisdiction over utility matters on the  
22 status of any actions it has undertaken under this chapter and  
23 must submit any rule or order the commission has adopted in  
24 accordance with subsection 2.

26 The joint standing committee of the Legislature having  
27 jurisdiction over utility matters may report out legislation  
28 regarding telecommunications regulation to the First or Second  
29 Regular Session of the 117th Legislature.

31 This chapter may not be construed to require the commission  
32 to adopt any alternative form of regulation.

34 **§9105. Report to Legislature**

36 The commission shall provide to the joint standing committee  
37 of the Legislature having jurisdiction over utility matters, on  
38 an annual basis beginning September 1, 1996, a report describing  
39 the activities of the commission pursuant to this chapter and the  
40 extent to which the alternative form of regulation has achieved  
41 the objectives of this chapter.'

42  
43 Further amend the bill by inserting at the end before the  
44 statement of fact the following:

46 **FISCAL NOTE**

48 The Public Utilities Commission will incur some minor  
additional costs if it decides to adopt an alternative form of

regulation for large telephone utilities. These costs can be absorbed within the commission's existing budgeted resources.'

### STATEMENT OF FACT

This amendment, which is the majority report of the Joint Standing Committee on Utilities:

1. Requires that the Public Utilities Commission's status report on telecommunications, required under current law, be provided to the Joint Standing Committee on Utilities and the Joint Standing Committee on Housing and Economic Development;

2. Clarifies the definition of "alternative form of regulation";

3. Provides that the Public Utilities Commission is not required to adopt an alternative form of regulation and that nothing in the bill may be construed to require the commission to adopt any alternative form of regulation;

4. Specifically provides that ratepayers, as a result of the implementation of any alternative form of regulation, will not pay more for local telephone service;

5. Adds 2 new conditions on the adoption of an alternative form of regulation designed to ensure that certain charges will continue to be nondiscriminatory and that consumer and competitive safeguards will be established;

6. Removes language that suggested that the only alternative forms of regulation that would encourage new telecommunications services would be the deregulation of those services;

7. Alters the implementation requirements of the bill. Under the amendment:

A. The Public Utilities Commission is authorized to adopt an alternative form of regulation by May 15, 1995. If the commission adopts such regulation by that date, the regulation takes effect 90 days after the adjournment of the First Regular Session of the 117th Legislature. The commission must report to the Joint Standing Committee on Utilities on its activities and submit any adopted alternative form of regulation by May 16, 1995;

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2 B. If the Public Utilities Commission fails to adopt an  
alternative form of regulation by May 15, 1995, it must  
4 conclude any proceeding it undertakes to adopt such  
alternative form of regulation by February 1, 1996. The  
6 commission must report to the Joint Standing Committee on  
Utilities on its activities by February 2, 1996 and the  
report must include any alternative form of regulation  
8 adopted by the commission; and

10 C. The Joint Standing Committee on Utilities may report out  
legislation regarding telecommunications regulation to the  
12 First or Second Regular Session of the 117th Legislature;

14 8. In light of the new reporting requirements imposed under  
this amendment on the Public Utilities Commission in 1995 and  
16 1996, provides a later date for the annual report that the  
commission must provide to the Joint Standing Committee on  
18 Utilities describing its activities regarding any alternative  
form of regulation;

20 9. Makes technical changes to the bill for purposes of  
22 clarity; and

24 10. Adds a fiscal note to the bill.