

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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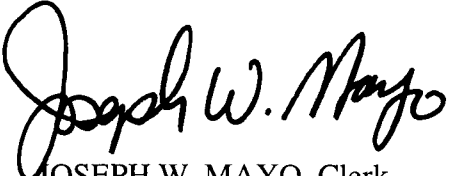
House of Representatives, April 11, 1995

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**An Act to Remove Outdated Provisions from the Public Utilities Law.**

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Submitted by the Public Utilities Commission pursuant to Joint Rule 24.  
Reference to the Committee on Utilities and Energy suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative KONTOS of Windham.  
Cosponsored by Senator CARPENTER of York.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §200-B**, as repealed and replaced by PL 1987,  
5 c. 769, Pt. A, §9, is amended to read:

6 **§200-B. Authority of Attorney General to request telephone records**

7 Whenever the Attorney General, a deputy attorney general or  
8 a district attorney has reasonable grounds to believe that the  
9 services furnished to a person or to a location by a public  
10 utility, as defined in Title 35-A, section 102, ~~subsections 17~~  
11 ~~and subsection~~ 19, whether or not subject to the jurisdiction of  
12 the Public Utilities Commission, and that ~~such~~ the public utility  
13 services are being or may be used for, or to further, an unlawful  
14 purpose, ~~he~~ the Attorney General may demand, in writing, all the  
15 records in the possession of the public utility relating to that  
16 service. Upon a showing of cause to any Justice of the Supreme  
17 Judicial Court or the Superior Court or Judge of the District  
18 Court, the justice or judge shall approve the demand. ~~Such~~ The  
19 showing ~~shall~~ must be by the affidavit of any law enforcement  
20 officer. Upon receipt of a demand, approved by a justice or  
21 judge, the public utility shall ~~forthwith~~ deliver to the person  
22 making the request all the records or information in compliance  
23 with the demand. If the person making request demands that the  
24 public utility not release the fact of the request or that  
25 records will be or have been supplied, the public utility shall  
26 may not release ~~such~~ the fact or facts without court order. ~~No~~ A  
27 public utility or employee of that public utility may not be  
28 criminally or civilly responsible for furnishing any records or  
29 information in compliance with the demand.  
30

31 **Sec. 2. 35-A MRSA §102, sub-§13**, as repealed and replaced by  
32 PL 1991, c. 342, §2, is amended to read:

33 **13. Public utility.** "Public utility" includes every gas  
34 utility, natural gas pipeline utility, electric utility,  
35 telephone utility, ~~telegraph--utility,~~ water utility, public  
36 heating utility and ferry, as those terms are defined in this  
37 section, and each of those utilities is declared to be a public  
38 utility. "Public utility" does not include the operation of a  
39 radio paging service, as that term is defined in this section, or  
40 mobile telecommunications services unless only one entity or an  
41 affiliated interest of that entity, as defined in section 707,  
42 subsection 1, paragraph A, exclusively controls the use of the  
43 radio frequency spectrum assigned by the Federal Communications  
44 Commission to provide mobile service to the service area.  
45

46  
47  
48 Nothing in this subsection precludes:

- 2 A. The jurisdiction, control and regulation by the  
commission pursuant to private and special act of the  
Legislature;
- 4
- 6 B. The commission's jurisdiction and control over and  
regulation of a public utility that provides, in addition to  
other services, radio paging service or mobile  
telecommunications services;
- 8
- 10 C. The commission's jurisdiction and control over and  
regulation of basic exchange telephone service offered by a  
12 provider of mobile telecommunications services if, after  
investigation and hearing, the commission determines that  
14 the provider is engaged in the provision of basic exchange  
telephone service; and
- 16
- 18 D. Negotiations for, or negates agreements or arrangements  
existing on the effective date of this paragraph relating  
to, rates, terms and conditions for interconnection provided  
20 by a telephone utility to a company providing radio paging  
or mobile telecommunications services.

22 **Sec. 3. 35-A MRSA §102, sub-§§17 and 18,** as enacted by PL 1987,  
24 c. 141, Pt. A, §6, are repealed.

26 **Sec. 4. 35-A MRSA §116, sub-§1,** as amended by PL 1991, c. 343,  
§1, is further amended to read:

28

30 **1. Utilities subject to assessments.** Every electric, gas,  
telegraph, telephone and water utility and ferry subject to  
regulation by the commission is subject to an assessment of not  
32 more than .35% on its intrastate gross operating revenues to  
produce no more than \$4,473,000 in revenues annually beginning in  
34 the 1991-92 fiscal year and not more than \$4,918,000 in revenues  
annually beginning in the 1992-93 fiscal year. The commission  
36 shall determine the assessments annually prior to May 1st and  
assess each utility for its pro rata share for expenditure during  
38 the fiscal year beginning July 1st. Each utility shall pay the  
assessment charged to the utility on or before July 1st of each  
40 year. Any increase in the assessment that becomes effective  
subsequent to May 1st may be billed on the effective date of the  
42 act authorizing the increase.

44 A. The assessments charged to utilities under this section  
are just and reasonable operating costs for rate-making  
46 purposes.

48 B. For the purposes of this section, "intrastate gross  
operating revenues" means intrastate revenues derived from  
50 filed rates, except revenues derived from sales for resale.

2 C. Gas utilities subject to the jurisdiction of the  
commission solely with respect to safety are not be subject  
4 to any assessment.

6 D. The commission may correct any errors in the assessments  
by means of a credit or debit to the following year's  
8 assessment rather than reassessing all utilities in the  
current year.

10 E. The commission may exempt utilities with annual  
12 intrastate gross operating revenues under \$50,000 from  
assessments under this section.

14 **Sec. 5. 35-A MRSA §701, sub-§2**, as enacted by PL 1987, c. 141,  
16 Pt. A, §6, is amended to read:

18 **2. Renting facilities.** ~~Nothing--in--this~~ This section  
prohibits does not prohibit a public utility from renting any  
20 facilities incident to the production, transmission, delivery or  
furnishing of electricity, gas, heat or water or the conveyance  
22 of telephone ~~or telegraph~~ messages and paying a reasonable rental  
for the facilities.

24 **Sec. 6. 35-A MRSA §710, sub-§4**, as enacted by PL 1987, c. 141,  
26 Pt. A, §6, is amended to read:

28 **4. Filing accident reports.** Every public utility shall  
file reports of accidents described in subsections 1 and 2 with  
30 the commission. Accident reports ~~shall~~ must be filed in  
compliance with the commission's rules and in the manner and form  
32 designated by the commission. Accidents resulting in loss of  
human life ~~shall~~ must be reported immediately by telephone,  
34 facsimile machine or telegraph electronic media in a manner  
designated by the commission followed by a detailed written  
36 report.

38 **Sec. 7. 35-A MRSA §2101**, as amended by PL 1987, c. 490, Pt.  
C, §7, is further amended to read:

40 **§2101. Organization of certain public utility corporations**

42 Corporations for the operation of ~~telegraphs-or~~ telephones  
44 and for the purpose of making, generating, selling, distributing  
and supplying gas or electricity or for the operation of water  
46 utilities, ferries or public heating utilities in any  
municipality, or 2 or more adjoining municipalities, within the  
48 State, may be organized under the general corporate law of the  
State.

50

2           **Sec. 8. 35-A MRSA §2301**, as enacted by PL 1987, c. 141, Pt.  
A, §6, is amended to read:

4           **§2301. Telephone utilities and television corporations may**  
          **construct lines**

6  
7           Except as limited, every corporation organized under section  
8 2101 for the purpose of operating ~~telegraphs--or~~ telephones and  
every corporation organized for the purpose of transmitting  
10 television signals by wire may construct, maintain and operate  
its lines upon and along the route or routes and between the  
12 points stated in its certificate of incorporation; and may  
construct its lines and necessary erections and fixtures for  
14 them along, over, under and across any of the roads and streets  
and across or under any of the waters upon and along the route or  
16 routes subject to the conditions and under the restrictions  
provided in this chapter and chapter 25.

18           **Sec. 9. 35-A MRSA §2501, sub-§2**, as enacted by PL 1987, c.  
20 141, Pt. A, §6, is amended to read:

22           **2. Applicability of section 2503.** Except as otherwise  
provided, ~~no~~ a person may not construct facilities upon and along  
24 highways and public roads, without applying for and obtaining a  
written location permit from the applicable licensing authority  
26 under section 2503. Included within this requirement is every  
person operating ~~telegraphs--or~~ telephones or transmitting  
28 television signals by wire; every person that owns, controls,  
operates or manages any pipeline within or through this State for  
30 the transportation as a common carrier for hire of oil, gas,  
gasoline, petroleum or any other liquids or gases; every water  
32 utility and every person making, generating, selling,  
distributing and supplying gas or electricity; every water  
34 utility or sewer company, district or system privately or  
municipally owned; every municipally owned or operated fire  
36 alarm, police alarm or street lighting circuit or system; every  
cooperative organized under chapter 35; and any other person  
38 engaged in telecommunications or the transmission of heat, or  
electricity.

40           **Sec. 10. 35-A MRSA §2516, sub-§1**, as enacted by PL 1987, c.  
42 141, Pt. A, §6, is amended to read:

44           **1. Permit required to cut wires and remove poles.** No A  
person may not cut, disconnect or remove the wires or poles of a  
46 ~~telegraph,~~ telephone or electric utility in order to move a  
building, alter, repair or improve a street, bridge or way, or  
48 for any other purpose unless that person:

2 A. Applies in writing to the municipal officers of the  
municipalities in which changes or alterations of wires or  
poles are desired, or in which a building is to be moved; and

4 B. Receives a written permit from the officers.

6 **Sec. 11. 35-A MRSA §2517, sub-§1**, as enacted by PL 1987, c.  
8 141, Pt. A, §6, is amended to read:

10 **1. Revocation of pole location by municipal officers.** When  
the municipal officers of a municipality having a population of  
12 more than 40,000 inhabitants, determine, after notice and  
hearing, that public safety and the public welfare require the  
14 revocation of a location for poles for conveying electricity or  
for the transmission of telephone ~~or telegraph~~ messages already  
16 erected in a public street or way other than a state or a  
state-aid highway outside the compact area and other than a  
18 federal-aid highway, they may revoke the location and order the  
poles removed. The person that owns the poles shall remove them  
20 within a reasonable time. Other suitable locations or the right  
to use other poles jointly shall must be granted by the municipal  
22 officers to the person.

24 **Sec. 12. 35-A MRSA §2518, sub-§1**, as enacted by PL 1987, c.  
26 141, Pt. A, §6, is amended to read:

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

40 **Sec. 13. 35-A MRSA c. 79** is amended by repealing the chapter  
42 headnote and enacting in its place the following:

44 **CHAPTER 79**

46 **TELEPHONE LINES**

48 **Sec. 14. 35-A MRSA §§7901 to 7904**, as enacted by PL 1987, c.  
50 141, Pt. A, §6, are amended to read:

2  
3 **§7901. Telephone lines**

4 **1. Connection between the lines of 2 or more utilities.**

4 Whenever ~~When~~ the commission, after a hearing, finds that a  
5 physical connection can reasonably be made between the lines of 2  
6 or more telephone utilities ~~or--2--or--more--telegraph--utilities~~  
7 whose lines can be made to form a continuous line of  
8 communication by the construction and maintenance of suitable  
9 connections for the transfer of messages or conversations and  
10 that public convenience and necessity will be served by the  
11 connection, or finds that 2 or more ~~telegraph--or~~ telephone  
12 utilities have failed to establish joint rates, tolls or charges  
13 for service by or over their lines, and that joint rates, tolls  
14 or charges ought to be established, the commission may, by its  
15 order:

16  
17 A. Require that the connection be made, except where the  
18 purpose of the connection is primarily to secure the  
19 transmission of local messages or conversations between  
20 points within the same city or town;

21  
22 B. Require that conversations be transmitted and messages  
23 transferred over the connection under such rules as the  
24 commission may establish; and

25  
26 C. Prescribe through lines and joint rates, tolls and  
27 charges to be made and to be used, observed and enforced in  
28 the future.

29  
30 **2. Division of costs between utilities.** If the telephone  
31 ~~or--telegraph~~ utilities do not agree upon the division between  
32 them of the cost of the physical connection or connections or the  
33 division of the joint rates, tolls or charges established by the  
34 commission over the through lines, the commission may, after  
35 further hearing, establish the division by supplemental order.

36  
37 **§7902. Lines along highways and across waters**

38  
39 Every ~~telegraph--or~~ telephone utility or person transmitting  
40 television signals by wire may, except as limited, construct,  
41 maintain and operate its lines upon and along the routes and  
42 between the points stated in its certificate of incorporation;  
43 and may, subject to the conditions and under the restrictions  
44 provided in this Title, construct its lines along, over, under  
45 and across any of the roads and streets and across or under any  
46 of the waters upon and along the routes, with all necessary  
47 erections and fixtures.

48  
49 **§7903. Connection with other telephone lines**



2 Every ~~telegraph-or~~ telephone utility in the State may, upon  
such terms as may be agreed upon by the contracting parties,  
subject to the control of the commission:

4  
6 **1. Connect lines.** Connect its lines with those of any  
other like utility;

8 **2. Sell or lease lines.** Sell or lease its lines and  
property, in whole or in part, to any other like utility; and

10  
12 **3. Purchase or lease lines.** Purchase or lease the lines  
and property, in whole or in part, of any like utility.

14 **§7904. Land for public use**

16 Every ~~telegraph--or~~ telephone utility in the State may  
purchase, or take and hold as for public uses, land necessary for  
18 the construction and operation of its lines. Land may be taken  
and damages for it may be estimated, secured, determined and paid  
20 as provided for water utilities by sections 6502 to 6512.

22 **Sec. 15. 35-A MRSA c. 81,** as amended, is repealed.

24

**STATEMENT OF FACT**

26

28 The Maine Revised Statutes, Title 35-A, section 119 requires  
the Public Utilities Commission to, every 5 years, do a  
comprehensive review of Title 35-A and remove outdated  
30 provisions. In 1995, the commission is required to undertake a  
comprehensive review under Title 35-A, section 119.

32

34 This year's review yielded several minor, nonsubstantive  
changes to Title 35-A that the commission has included in its  
annual housekeeping bill. During its 1995 review for outdated  
36 provisions, the commission also determined that all references  
to, and provisions governing, telegraph utilities and telegraph  
38 lines were obsolete. The commission further determined that  
because of the number of provisions in Title 35-A relating to  
40 telegraph utilities and telegraph lines, a separate bill to  
accomplish substantive revisions to Title 35-A resulting from the  
42 1995 review was necessary.

44

46 This bill is intended to remove all references to telegraph  
utilities and telegraph lines from Title 35-A. Where "telegraph"  
was included as a permissible way of providing notice to the  
commission, as in this bill, the commission has deleted the word  
48 telegraph and replaced it with facsimile machine or electronic  
media.