

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1995

Legislative Document

No. 1616

S.P. 612

In Senate, December 8, 1995

An Act Relating to Pole Attachment Rate Disputes.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Received by the Secretary of the Senate on December 6, 1995. Referred to the Committee
on Utilities and Energy and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator CARPENTER of York.

Cosponsored by Senators: BUTLAND of Cumberland, FERGUSON of Oxford, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, MICHAUD of Penobscot, O'DEA of Penobscot, PARADIS of Aroostook, Representatives: CARLETON of Wells, DONNELLY of Presque Isle, GIERINGER of Portland, GUERRETTE of Pittston, GWADOSKY of Fairfield, JACQUES of Waterville, JONES of Bar Harbor, KONTOS of Windham, LUTHER of Mexico, MURPHY of Berwick, O'NEAL of Limestone.

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

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

5
6 **§711. Joint use of equipment**

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

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

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

23 C. That the public utilities ~~or cable television system~~
24 have failed to agree upon the use or the terms and
25 conditions or compensation for the use.

26
27 **2. Liability of user.** If joint use is ordered, the public
28 utility ~~or cable television system~~ to whom the use is permitted
29 ~~shall be~~ is liable to the owner or other users of the conduits,
30 subways, wires, poles, pipes or other equipment for damage that
31 may result from its use to the property of the owner or other
32 users.

33 **3. Interests of utility customers.** Any actions taken or
34 orders issued by the commission under this section ~~shall~~ must
35 take into account the interests of the ~~subscribers of the~~
36 ~~affected cable television system, as well as the~~ customers of the
37 affected public utilities.

38 **4. Rules.** ~~The commission shall adopt a rule governing the~~
39 ~~resolution of pole attachment rate disputes. The commission~~
40 ~~shall consider various formulas, including, but not limited to,~~
41 ~~the formula adopted by the Federal Communications Commission as~~
42 ~~codified in 47 Code of Federal Regulations, Part 1, Subpart J, as~~
43 ~~amended.~~

2 **Sec. 2. 35-A MRSA §8302**, as enacted by PL 1987, c. 141, Pt.
A, §6, is repealed and the following enacted in its place:

4 **§8302. Pole attachments**

6 The commission does not have jurisdiction over rates, terms
and conditions of cable television pole attachments.

8

10 **Sec. 3. Public Utilities Commission to provide statement to Federal**
Communications Commission. The Public Utilities Commission
12 shall provide in writing a statement to the Federal
Communications Commission that the Public Utilities Commission no
14 longer has authority to regulate rates, terms and conditions of
cable television pole attachments and that the Public Utilities
Commission's prior certification to the Federal Communications
16 Commission is revoked.

18

STATEMENT OF FACT

20

22 This bill transfers jurisdiction for settling pole
attachment rate disputes from the Public Utilities Commission to
the Federal Communications Commission.