

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 288

H.P. 252

House of Representatives, January 25, 2001

An Act to Clarify Access to Private Lines in a Public Way.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative TRACY of Rome.

Cosponsored by Representatives: GOODWIN of Pembroke, SKOGLUND of St. George.

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

2
4 **Sec. 1. 35-A MRSA §2305**, as amended by PL 1999, c. 398, Pt. A, §34 and affected by §§104 and 105, is further amended to read:

6 **§2305. Transmission and distribution utilities may construct**
8 **lines**

10 Every transmission and distribution utility may construct and maintain its lines in, upon, along, over, across and under the roads and streets in any municipality in which it is authorized to supply electricity, subject to the conditions and restrictions provided in this chapter and chapter 25.

14 No person except a transmission and distribution utility may construct and maintain its lines with poles or other structures carrying electricity in, upon, along or under the roads, streets and public ways maintained by any municipality unless,--in addition--to--meeting the requirements of section 2503,--the applicable-licensing-authority-finds-that have been met and:

22 ~~2.--Posting surety bonds.--The applicant has posted with the licensing authority a surety bond in accordance with terms and conditions established by the licensing authority in an amount sufficient to:~~

26 ~~A.--Protect the public from claims, demands and actions arising out of improper construction of the line; and-~~

30 **3. Duplication of or interference with transmission and distribution facilities.** The commission has found that the line neither constitutes a duplication of transmission and distribution facilities nor interferes physically with the adequate and safe delivery of electricity to others. A commission finding is not required under this subsection if the only nonutility facility in the public way is a facility providing service from the person's abutting property or abutting easement to a utility facility in the public way and that utility facility is within 30 feet of the person's property line or easement.

42 A utility that enters into any written agreement with the owner of a line with regard to that line shall record that agreement in the registry of deeds in the county in which the line is placed.

46 The owner of a line is responsible for properly maintaining the line. If the owner of a line fails to maintain a line

2 properly and a municipality incurs any expense in maintaining the
line or pays any damages as a result of the owner's failure to
4 maintain the line properly, the municipality may assess the owner
of the line the amount of those actual costs. The assessment
6 must be in writing and must specify the amount of the assessment,
the basis for the assessment and that a lien will be created on
8 the real estate of the owner of the line if the assessment is not
paid within 90 days. If the owner of the line does not pay the
assessment within 90 days, a lien is created on the real estate
10 of the owner of the line situated in the municipality to secure
the payment of actual costs incurred by the municipality. This
12 lien may be treated and enforced in the same manner as a tax lien
under Title 36, chapter 105, subchapter IX, article 2. In
14 addition to any other available remedies, a person aggrieved by a
lien imposed or enforced by a municipality under this section may
16 bring an action in Superior Court for a determination of the
validity of the lien.

18

This section does not apply to state and state aid highways
20 maintained by the State.

22 A transmission and distribution utility may not deliver
electricity over any line in, upon, along or under roads, streets
24 and public ways maintained by a municipality if the lines or
poles were constructed by a person other than a transmission and
26 distribution utility, unless the transmission and distribution
utility is provided with a certified copies copy of the findings
28 by ~~the applicable licensing authority of compliance with~~
subsection 2 and the commission's findings pursuant to subsection
30 3.

32

SUMMARY

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This bill repeals the requirement that a person who is not a
36 transmission and distribution utility must post prior to
constructing and maintaining its lines with poles or other
38 structures carrying electricity in, upon, along or under the
roads, streets and public ways maintained by any municipality a
40 surety bond in an amount sufficient to protect the public from
claims, demands and actions arising out of improper construction
42 of the line.