

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 1973

H.P. 1472

House of Representatives, December 20, 2001

An Act Regarding Utility Easements.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 17, 2001. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative HALL of Bristol.
Cosponsored by Representatives: BLISS of South Portland, COWGER of Hallowell,
CRABTREE of Hope, DORR of Camden, GOODWIN of Pembroke, MARLEY of Portland,
RINES of Wiscasset, Senator: CARPENTER of York.

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

4 **Sec. 1. 35-A MRSA §2313** is enacted to read:

6 **§2313. Protection of utility facilities upon abandonment
of railroad rights of way**

8 Upon abandonment of a railroad line by a railroad company, a
10 public utility with structures within the limits of the abandoned
12 railroad right-of-way acquires an easement to allow the public
14 utility to continue to maintain, repair, improve, replace or
16 remove those structures. Upon request for compensation from the
18 owner of the land burdened by the easement, the public utility
may either release its easement or pay the owner the difference
in the value of the parcel burdened by the easement with and
without the easement. That difference in value is determined as
provided in chapter 65.

20 **Sec. 2. 35-A MRSA §3136, sub-§2, ¶D**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

22 D. Lands or easements owned or used by railroad
24 corporations if the proposed or existing utility structures
would substantially interfere with the provision of railroad
services over existing railroad lines.

26 **Sec. 35-A MRSA §3136, sub-§5** is enacted to read:

28 **5. Railroad ownership: value.** The value of land or
30 easements owned or used by railroad corporations that are not
32 excluded from eminent domain rights by operation of subsection 2,
34 paragraph D and that are taken under this section is the
difference between the value before and after the taking of the
parcel from which the land or easement was taken.

36 **SUMMARY**

38 Traditionally, railroads in the State have issued licenses
40 rather than deeded easements to public utilities to permit them
42 to place lines across railroad rights-of-way. When a railroad
44 company abandons or transfers its rights to another party, the
46 utility may lose its license for its structures across those
48 rights-of-way. This bill establishes that utilities would retain
the same rights when a railroad is abandoned as when a public way
is abandoned. The bill also clarifies that electric utilities
can take necessary rights to cross railroad property unless the
crossing would interfere with rail operations and clarifies the
approach for determining the value of the land or easements.