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STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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Harry Lanphear
ADMINISTRATIVE DIRECTOR

February 12, 2020

Honorable Mark W. Lawrence, Senate Chair
Honorable Seth A. Berry, House Chair
Energy, Utilities and Technology Committee
100 State House Station
Augusta, Maine 04333

Re: Addendum to Report Related to Abandoned Utility Poles and Associated Facilities

Dear Senator Lawrence and Representative Berry:

The Commission submitted its Report Related to Abandoned Utility Poles and Associated Facilities to the Committee on January 31, 2020. The Report inadvertently omitted public comments filed by the Maine Municipal Association (MMA) and five municipalities. Attached is an Addendum to the Report summarizing these comments and additional detailed information filed by MMA about the experiences municipalities have had on this issue (reports of abandoned poles and dual poles and their associated facilities, potential threats to public safety and timeliness of removal).

As the Report states, the Commission intends to examine these issues further as part of a broader discussion on how to have more efficient communications and transfer of facilities by pole owners and attachers, perhaps by mandating their participation in a statewide, or territory-wide, notification system, in its upcoming rulemaking proceeding related to Chapter 880, the Commission's pole attachment rule. The Commission looks forward to municipalities' participation in the rulemaking proceeding.

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garrett Corbin'.

Garrett Corbin
Legislative Liaison

cc: Energy, Utilities and Technology Committee Members
Lucia Nixon, Legislative Analyst

**Addendum to Public Utilities Commission January 31, 2020 Report Related to
Abandoned Utility Poles and Associated Facilities**

Maine Municipal Association (MMA)

In MMA's view, it is of fundamental importance that utilities be responsible and accountable for the facilities that the government has allowed them to place in public rights of way, from the day the pole is set and/or the day facilities are attached, until the day they are removed. MMA provided detailed information, which is attached, about the experiences municipalities have had on this issue (reports of abandoned and dual poles and their associated facilities, potential threats to public safety and timeliness of removal). Municipal officials, MMA stated, would generally be supportive of Maine adopting mandatory transfer, relocation, and removal standards that include timeframes in line with those in Massachusetts and New Jersey statutes. With respect to the issue of penalties, MMA supports ensuring there are "teeth" to the obligations lawfully imposed on utilities and is open to discussing the most appropriate means of ensuring compliance, including whether any fines for violations would be more appropriately assessed by state or local permitting authorities, or both.

MMA concluded by stating that in its judgement, these problems are occurring statewide and at too great a frequency to be disregarded and noted its willingness to cooperate on identifying the most practical and effective policies to improve the utilities' track record on this issue.

Town of Kennebunk

The Town of Kennebunk stated that on many occasions there is extensive coordination for the timely relocation of the utilities' facilities, however, the break point is often in the removal of the abandoned pole. The Town stated that it has had to make an inordinate effort to try and track down a contact who can facilitate the pole removal. The Town further stated that it does not wish to impart any onerous conditions upon utilities and that it enjoys a very positive relationship with its local electric service provider, adding that it seems that extensive delay of certain providers to remove abandoned utilities abuses that good relationship. The Town also commented that while a utility seems to enjoy protections from being labeled as a "fixed deadly object", it seems that once the poles are essentially abandoned in place for more than a reasonable period of time, 90 days, that protection should cease to exist. The Town would encourage reasonable legislation that would require utilities to fulfill their obligation to manage their facilities and safety within the public right-of-way.

City of Lewiston

The City of Lewiston commented that timely relocation of above ground utilities has been an issue in the City and noted that many people use bicycle and pedestrian infrastructure to access their daily needs, work and school. The City noted that it can take years for all of the utilities to transition from the old pole and that new and old poles often cause a restriction that may impact Americans with Disabilities access directly or may not allow sufficient passage of snow plows or maintenance equipment. At these locations, pedestrians are forced into the street during winter months, in some cases persons with mobility restrictions may need to seek other routes altogether. The City pointed to issues it has had on Birch Street, where there has been an issue of high school students walking in the street noting that it is difficult to instruct them onto the sidewalk when a portion of the sidewalk cannot be plowed.

Additionally, the City noted that there are guy wire leads and entire poles that are abandoned and protruding into sidewalks causing long-term safety and mobility issues. Others that become damaged are hastily repaired and present the potential for tripping and other injuries. The City further stated that as the people of Maine and policy makers encourage walking and biking for both health and environmental reasons, agencies as well as regulated utilities, must pay greater attention to the safety and accommodation of users that depend on pedestrian modes of transportation.

City of Auburn

The City of Auburn commented that this is definitely an issue throughout the City and that its Public Works has had to pull poles after waiting up to two years. The City also noted that there are a number of poles on Center Street where poles transfers have not occurred in over 3 years and that this narrows the sidewalk so that the sidewalk tractor barely fits through.

Town of Vasselboro

The Town noted that over the years, municipal officials have had numerous conversations and issues regarding getting facilities transferred over to new poles so old poles could be removed. One municipal official stated that there were recently 25 abandoned poles in North Vasselboro noting that most have lines and/or hardware on them. The Town also noted that the potential for life threatening injury is greater when a vehicle goes off the road and hits two poles instead of one, that one of the poles on Main Street (Route 32) has a distinct lean toward the road on a curve in the road, seeming to be a specific safety issue, and that some of the U.S. flags that the Town of Vasselboro hangs on 100 utility poles along Main Street are damaged or destroyed every year by getting caught on hardware or large splinters on the adjoining abandoned poles. The Town concluded by stating that this situation has existed for far too long and needs to be addressed.

Town of Livermore Falls

Livermore Falls Public Works commented that it has two streets in Livermore Falls where the Town has been waiting for CMP to replace poles since 2016 so the town can rebuild the streets and sidewalk. The town also stated that it did not have an exact count on how many other poles it is waiting for certain facilities or poles to be removed.



Maine Municipal
Association

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(207) 623-8428
www.memun.org

September 23, 2019

Maine Public Utilities Commission
18 State House Station
Augusta, Maine 04333-0018

Re: Docket No. 2019-00223

Please accept this letter as the initial comment of the Maine Municipal Association (MMA) on the Commission Inquiry Related to Abandoned Utility Poles and Associated Facilities and Report Pursuant to Public Law 2019, c. 128. The questions posed by the Commission's request for information and comments are addressed sequentially below.

1. It appears this question is directed to owners of utility poles. While many municipalities do own poles, utilities own the vast majority of those placed statewide. For this reason, the Association believes questions a, b, and c will be more adequately addressed by the utilities.
2. The same may be said with respect to questions 2(b) and (c). In response to question 2(a), MMA believes it is of fundamental importance that utilities be responsible and accountable for the facilities that the government has allowed them to place in public rights of way, from the day the pole is set and/or the day facilities are attached, until the day they are removed. Given the experiences detailed in Attachments I-IV, municipal officials would generally be supportive of Maine adopting mandatory transfer, relocation, and removal standards that include timeframes in line with those cited in Massachusetts and New Jersey. With respect to the allowance of a penalty in N.J. Stat. Ann. § 48:3-17a, the Association supports ensuring there are "teeth" to the obligations lawfully imposed on utilities and is open to discussing the most appropriate means of ensuring compliance, including whether any fines for violations would be more appropriately assessed by state or local permitting authorities, or both.
3. Included in Attachments I-IV are reports of abandoned poles and dual poles, as well as their associated facilities, that have been brought to MMA's attention.
4. Included in Attachments I-IV are comments submitted to MMA referring to potential threats to public safety and timeliness of removal.
5. The Association respectfully defers to the legal judgment of the Commission and the Maine Legislature regarding the determination of jurisdiction between two state entities.

6. The reports included in Attachments I-IV reflect themes of delay, abandonment, hazards to public safety, and related issues. The problems are occurring statewide, and in MMA's judgment at too great a frequency to be disregarded. The Association stands willing to cooperate on identifying the most practical and effective policies to improve the utilities' track record.

Thank you for this opportunity to submit comments. If you have any questions regarding this submission, I may be reached at gcorbin@memun.org or at (207) 623-8428.

Sincerely,

Garrett Corbin
Legislative Advocate
Maine Municipal Association

Attachment I

In addition to the comments submitted directly to the Commission in this Inquiry, the following list reflects issues related to pole management that have been reported to MMA by its members in the past year, organized by the nature of the issue. Not all municipalities are named, because some members indicated they would prefer that their municipality's name be kept anonymous. In those instances, the county is indicated rather than the municipality.

Abandoned Poles

- Abandoned poles not being removed are a constant issue. (York County)
- Failure to remove old or redundant poles. (Grand Isle)
- Companies leaving behind old equipment after repairs, insulators and brackets just tossed on the ground, old poles cut up and left in the ditch... Our main complaint is the utility companies not picking up after themselves, especially leaving old poles laying around. (Livermore)
- Leaving damaged poles after they have been destroyed in an accident. Cutting poles down and leaving them in the ditch. (West Paris)
- Residents and board members are concerned with there being multiple poles in a single location, both as it relates to aesthetics as well as a danger they may pose as a deadly fixed object in the ROW. (Androscoggin County)
- Old damaged poles left for extended periods. (Waterville)
- Utility poles left behind without any wires or cables going to them anymore. No one seems to want to come remove them. (Penobscot County)
- Telephone company not removing poles that are no longer needed. Not moving lines to new poles within a reasonable time. (Linneus)
- There are abandoned poles on Route 105 – Burkettville rd- and Route 131 Union rd in Appleton. I also noticed a large number of abandoned poles along rt 220 in Thorndike and Unity apparently because of a line replacement project. (Appleton)
- In Lincoln we have half a dozen (seemingly very old) utility poles that just stand with no purpose. We also have two dozen or more situations where there is a new pole with one utility (phone or electric) on it and another pole a foot away with the other utility on it. That appears to be in cases where one utility set a new pole and the other utility has never moved to the new pole. We have a number in this condition along West Broadway that may have happened when the road was rebuilt, but that was 5 years ago. We have not inventoried the entire town for these situations. (Lincoln)

Safety Hazards

- Old pole sets just cut off and a stub left out for mowing crews to hit. Lines into or laying on trees. Unsafe older poles (not sure how some are still up what I would call unsafe wires and connections.) older and copper wires, lines need more and harder trimming. Poles not replaced after being hit by cars. Guy wires not pulled out just left in the way. (Wales)

- When a new pole is set adjacent to, or in a sidewalk, sometimes the old pole or the drilling material is left in place and creates a safety hazard for pedestrians. Multiple requests to have the excavated material cleaned up and old pole has been ignored in the past. -broken (and replaced) pole are often left in place far too long. (Penobscot County)
- We had poles replaced on East Main Street last year and the holes where the previous pole had been had not been filled in by the utility, creating a walking hazard along the sidewalk. Ultimately the town filled in the holes. (Anonymous)
- Poles were cut at random heights and left in sidewalk. (Knox County)
- As the Town was getting prepared to do some major reconstruction on the Pease Rd. last summer, I contacted CMP's division in charge of placing poles and asked them to move a pole that is actually in the roadway not the right-of-way. I received no call back nor was the pole re-set to the outer limits of the right-of-way. (Cambridge)
- Trees and branches hanging over electric and phone lines not taken care of until they fall. (Moscow)
- Loose or damaged guy wires and anchors along pedestrian walkways. Should be monitored and inspected annually. When old poles are removed, excavation holes are not properly filled, compacted and matched to existing surface materials. (Waterville)

Timeliness

- Significant troubles having utilities transfer from old poles to new poles in a timely manner. To the point where it holds up projects. (Knox County)
- Removal of broken pole stubs. The time between power being moved to a new pole and phone and cable being moved is a problem. (Gardiner)
- Our biggest issue was it took over a year to have a guide wire moved so the snow wouldn't damage the ball field fence. Multiple phone calls were made. Everyone was pleasant but things didn't get done when promised. (Penobscot County)
- The electric utility runs new lines on new poles and the old poles remain for years while we wait for other utilities to move over. There are hundreds of double poles around town. (Bar Harbor)
- Utility Relocations as part of capital/construction projects: Poles are not moved, lines not transferred in timely manner. Causes delays and additional costs to the contractor, which are then passed on to the Municipality. Removal of existing poles, once the utilities have finally transferred the lines, often takes months, or years to occur. Constant follow up needed. Utilities on poles and pole owners do not communicate effectively between one another. This causes more delays. One pole anchor needs to be relocated. Has been in "scheduling" for 6 months. (Cumberland County)
- We did have one project on Goddard Rd near the Walmart Distribution Center, where we widened the roadway and needed to relocate all the poles. At the time Fairpoint decided they didn't have time and left poles in the middle of the new roadway an entire winter... We also had to push CMP for relocation of poles due to a street widening to provide a new turning land into an elementary school. (Lewiston)

General Municipal Issues

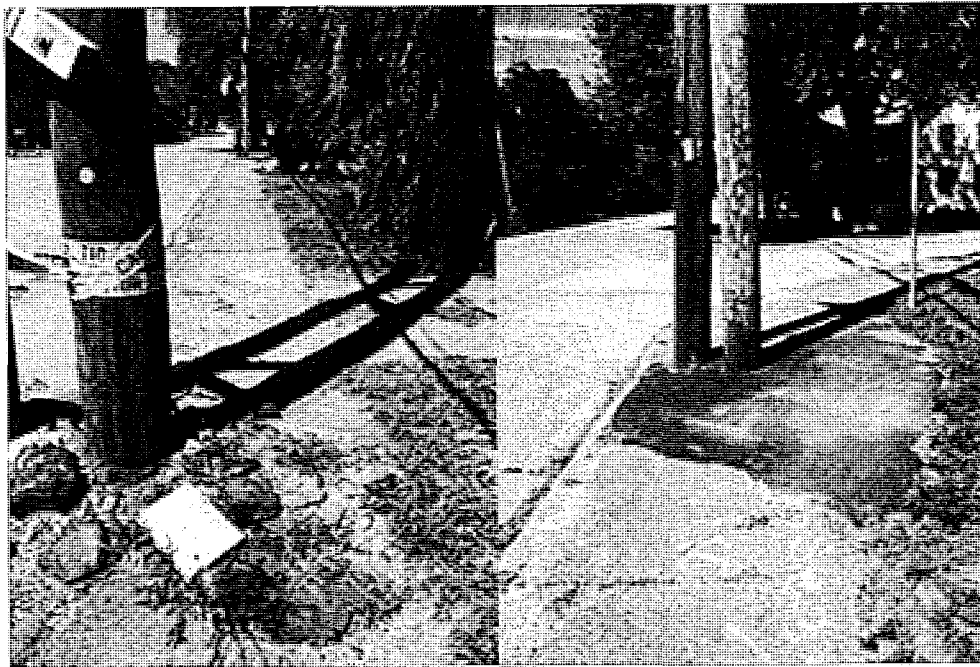
- Leaving old poles all over our city after installation of the new ones, items left on the sidewalks that puts our storm water/compliance in jeopardy. Never hot topping holes. (Biddeford)
- Poles put in without permits and replaced without notification... Damaging drainage ditches when installing poles. (Knox County)
- [Town] had to inventory the utilities' poles that they had left behind and had to send them a list of poles waiting for removal. The utility should have work orders and a better system in place to ensure proper and timely completion of said work. (Cumberland County)
- Utilities ... are unresponsive to municipal requests. (Kennebec County)
- Poles located in sidewalks or in front of curbs. Rotted poles or poles repaired with 4x6 patches. Very few permits received or digsafe notifications. Delay in moving poles that result in paving or curbing around them. Damage to pavement, especially new pavement or curbing, or sidewalks by outriggers. Need more communication from utilities. Not saying everything has to be coordinated, just communicated. (Cumberland County)
- Issues with Consolidated Communications when they planned to relocate poles as part of a new credit union building on Upper Main Street. Little or no communication with key City officials and no consideration or planning as to how existing utilities would be impacted. (Waterville)
- Project started over 5 years ago, [company] delayed moving poles and [company] had wires in ground that could have been moved to poles sooner. Cement had to be changed to thicker asphalt due to delays pushing project past workable dates for cement. (Hollis)
- CMP has placed and re-placed poles too close to the actual road. This placement interferes with normal road maintenance such as grading gravel roads and interferes with maintaining the ditching that needs to be done to keep proper drainage of the ditching drainage system. I can find no permit requests to re-set poles. (Cambridge)
- The issues currently experienced in Sanford necessitated the establishment of an ordinance ... to set standards for the relocation of poles and clearing the right-of-way thereafter (gravel and rock debris and cut off and abandoned poles) as well as the unsightly and hazardous attachment of top half of poles bolted to newly installed poles, or wires left hanging below limits for extended periods. Even given our Municipal Ordinance, there are consistent enforcement actions exacerbated by the lack of State Law recognizing the need for conformance to the standards. (Sanford)
- We have had to deal with utilities on pole permits and relocations as a result of road projects, etc. Problems were encountered with poles being placed in the middle of sidewalks. Many poles are in violation of ADA requirements and/or are placed to make it difficult or impossible for us to clear sidewalks with our sidewalk plows. We anticipate more difficult discussions in the future with increased emphasis in ADA accessibility and ramps. (Lewiston)

Attachment II

Here is my most recent story:

In the village district of the Town of Bradley, there are 2 utility poles in which Emera moved their wires to new poles located directly behind the existing. They then "secured" the old pole by nailing a 2 x 4 to the new pole. When I called to asked that they be removed, I was told that I would need to contact Time Warner and Consolidated to get their utility removed. Once that is completed they will remove the poles. I contacted Time Warner and they removed they reported that they removed their utilities. I then contacted Consolidated and received a phone call from an engineer, Mike Saymi (spelling?) stating that he will have the utilities removed. This was in June, I have left 4 messages with him since this time as late as August 20 with no success. I happen to have pictures because we have applied for a grant to repair our sidewalk.

Thank you,
Melissa Doane
Town of Bradley



Attachment III

The town of Pownal has been trying to resolve the problem with utility poles in the town's right of way for about two years.

Presently, Pownal has 42 poles that have not been removed after being replaced or are broken. Most are due to the Telephone and Cable TV wires not being transferred to the new poles. (see attached list)

Pownal is a small rural town of about 1,500 people. We have 40 miles of roads half paved and half are gravel. Pownal is served by three Central Maine Power Company Districts Portland, Brunswick and Lewiston. It's Telephone/internet provider is Consolidated and its Cable TV/internet provider is Spectrum we have no municipal fire alarm cable in town.

We have in the past contacted the PUC in regards to our concerns with poles not being removed. And were told our only option was to file an eleven person complaint form to start a PUC investigation.

It will be a huge improvement if the utilities were given timelines for wire transfers and pole removal. It seems that the utility line departments don't work together, thus leaving towns and property owners with extra or broken/dangerous poles for several years. In my opinion, there should be an organized procedure that wire transfers and pole removal are done within a timely manner. It is understood that during disaster events this work would be delayed due to restoration work. I have found it difficult to navigate the utilities to make progress. Municipal Officials should be provided with direct contact information to each utility company/district to report serious problems or emergencies that are not storm related.

Pownal's Ordinance Review Committee is also working on this matter in support of finding a way to get the poles removed. I am also seeking direct contact information for each utility company that can be used to make progress in this matter.

The new law Sec 1. 23 MRSA 3651 will help protect the town when one of the damaged poles fails and causes property or personal damages. Some of the broken poles will fall in the direction of the traveled way due to attached guide wires creating a seriously dangerous situation when they fail.

I do encourage taking the next step of the PUC investigation and creating a new law that limits the time that a pole that has been replaced be left in a town right of way. As well as setting a considerable monetary fine structure, I believe it would improve the timely removal of the old poles. Please feel free to contact me should you have any questions.

Respectfully,
Dick Clarke
Road Commissioner
Town of Pownal Maine
207-688-4407 Office/Shop



Town of Pownal

Independent Unto Itself
Public Works

UTILITY POLES THAT NEED TO BE REMOVED FROM THE TOWN RIGHT OF WAY UPDATED AUGUST 19, 2019

<u>ROAD:</u>	<u>POLE NUMBER:</u>	<u>NOTES:</u>
BROWN RD.	CMP # 175	Broken Guide Pole
BROWN RD.	NET&T # 29	Broken Guide Pole
DURHAM RD.	CMP # 514	Old pole/no wires
DURHAM RD.	CMP # 518/FP # 37	Old pole/no wires
ELMWOOD RD.	FP#17	Phone/Cable
HALLOWELL RD.	FP # 63/CMP #181	Phone/Cable
HALLOWELL RD.	FP # 52/CMP # 170	Phone/Cable
HALLOWELL RD.	CMP # 75/FP # 208	Phone/Cable
HALLOWELL RD	FP 259/ CMP 94	NEW POLE nothing transferred
HALLOWELL RD	CMP #195-S	
HODSDON RD.	CMP # 48 at Loring Lane	Phone/Cable
HODSDON RD.	CMP # 93 NEW POLE	Nothing transferred
HODSDON RD.	CMP # 100	Phone/Cable
HODSDON RD.	CMP # 104 NEW POLE	Nothing transferred
HODSDON RD.	CMP # 110 NEW POLE	Nothing transferred
HODSDON RD.	FP 4/CMP109	Phone/Cable
HODSDON RD.	CMP #114-115	Guide Pole
HODSDON RD.	FP#103/CMP100	Nothing transferred
HODSDON RD.	FP # 57 hit by car	NO POLE
HODSDON RD.	FP # 52 S	Guide Pole
LIBBY RD.	FP#3/CMP20 broken pole	Phone/Cable
LAWRENCE RD.	@ Durham/Auburn- Pownal Rd.(intersection)	Street Signs- no wires
LAWRENCE RD.	@ Sweetser Rd. FP#3/CMP#20	Phone/Cable/Street Signs
LEIGHTON RD.	CMP # 3/NT&T # 77	Old pole/no wires
LEIGHTON RD.	CMP # 4/FP #76	Phone/Cable
POLAND RANGE RD.	CMP #25/FP #24	Phone only/loose guide wire

TRYON RD. NT&T #714-0/CMP#1 Phone/Cable

ROAD: POLE NUMBER: NOTES:

ROYAL RD. FP#902-1/CMP#1 Phone/Cable/CMP
ROYAL RD. CMP#2 Phone/Cable/CMP
ROYAL RD. FP#47/CMP#23 Phone/Cable/CMP

ROYAL RD. FP#42/CMP#18 Phone/Cable
ROYAL RD. FP#40/CMP#833 leaning Phone/Cable/CMP
ROYAL RD. FP#35/CMP#885 Phone/Cable/CMP
ROYAL RD. FP#34 Phone/Cable/CMP
ROYAL RD. FP#28 Phone/Cable/CMP
ROYAL RD. FP#27 Phone/Cable/CMP
ROYAL RD. FP#23 Phone/Cable/CMP

TUTTLE RD. CMP # 72/FP # 62 (and Guide Pole) Phone/Cable leaning
TUTTLE RD. Pole # 57 Phone/Cable
TUTTLE RD. CMP#62-S Leaning Guide Pole

UPPER MINOT RD. FP 2.5 New pole no wires set

VERRILL RD. CMP 15/FP # 402 Cable/Phone leaning

TOTAL POLES: 42

Attachment IV

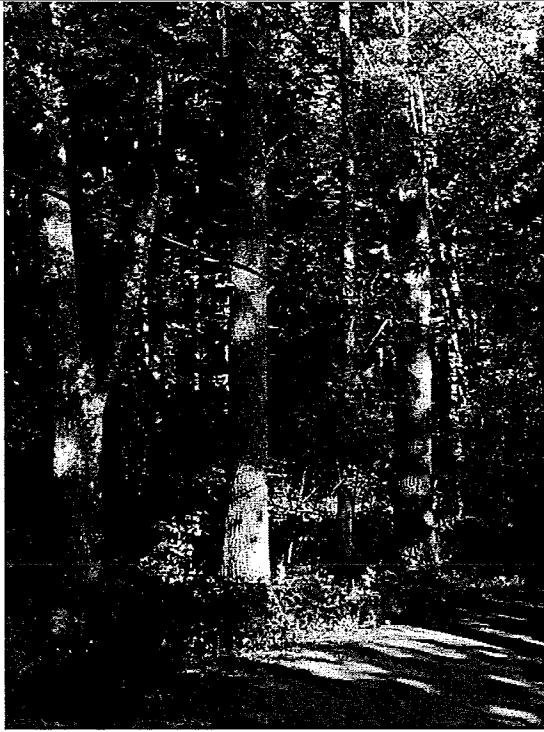
I am the Public Works Director in Topsham and would like to voice my concern about “abandoned poles & equipment” that the PUC is inquiring about because this past Spring has been problematic for my department while doing routine mowing along several of our roads in Topsham.

I have a couple of concerns or problems that have come up this past Spring & Summer:

1. The utility company has left discarded power lines along the shoulder of the road and while doing routine mowing along the road shoulder, our mower has been damaged by this material. These are areas we mow every year and this is the first year the operator struck these abandon wires or cables. I have attached a photo of the mower head, showing the bent mower deck, but the damage included the deck, hydraulic motor, rubber guard and bearings. The cost for the parts alone were over \$2,000 and this does not include our mechanic’s time to do the work. Several times, the operator had to stop and return to the garage to “cut out” wires that became wound up in the unit. Our mower is a flail style, whereas the arbor is rotating at a high rate of speed and it doesn’t take long for the abandon wire to become entangled and stopping the machine. This happened along the Cathance Road, Foreside Road, Augusta Road and River Road in Topsham.
2. Another issue is a utility pole that was struck by a vehicle last year and is still held together by rope. That is shown in the attached Cathance Rd. 3 photo.
3. On another section of Cathance Road there was an accident earlier this summer and 2 poles were replaced. Cathance Road photo and Cathance Road 2 attached, show how the cable line is still lying on the ground, attached to the new pole and on the other pole the old guide wire left suspended. Once the brush and grass grow up these will be a real safety concern next year mowing along the road, let alone the potential now to the general public.

Thanks for your time and I hope these types of situations can be corrected.

Respectfully,
Dennis Cox
Public Works Director
Town of Topsham
100 Main Street (mailing)
10 Maintenance Way (Actual)
Topsham, Me 04086
(207) 725-1728



Pleasant Point Road



Cathance Road



Cathance Road



Cathance Road