

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
125<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON ENERGY, UTILITIES  
AND TECHNOLOGY**

June 2012

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# STATE OF MAINE

125<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 125<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

<i>CARRIED OVER</i> .....	<i>carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i> .....	<i>chapter # of constitutional resolution passed by both houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; legislation died</i>
<i>DIED BETWEEN HOUSES</i> .....	<i>House &amp; Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i> .....	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i> .....	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i> .....	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i> .....	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i> .....	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i> .....	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i> .....	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; special law</i>
<i>PUBLIC XXX</i> .....	<i>chapter # of enacted public Law</i>
<i>RESOLVE XXX</i> .....	<i>chapter # of finally passed resolve</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 125<sup>th</sup> Legislature is Thursday, August 30, 2012. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

*Joint Standing Committee on Energy, Utilities and Technology*

**LD 1784**

**An Act To Reform Telecommunications Regulation**

**PUBLIC 623**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-869

This bill was reported out by the Joint Standing Committee on Energy, Utilities and Technology pursuant to Resolve 2011, chapter 69, section 1. As required by the resolve, the Public Utilities Commission submitted to the committee on December 30, 2011 its plan to reform telecommunications regulation, including the necessary changes to law to implement its plan. This bill incorporates all the changes to law that the commission indicated are necessary to implement its plan. The committee had not taken a position on the substance of the plan or this bill; the committee reported out the bill for the sole purpose of turning the commission's proposal into a printed bill that could be referred to the committee for an appropriate public hearing and subsequent processing in the normal course.

**Committee Amendment "A" (H-869)**

This amendment replaces the bill. This amendment preserves many of the substantive elements of the bill, but reorganizes them, rewrites some of them, removes others and adds still others. While the basic regulatory structure proposed in the bill is largely maintained, many of its details are modified or replaced.

In general, this amendment establishes a new regulatory structure for the telephone industry. It establishes a regulated basic local flat-rate dial-tone service called "provider of last resort service." Providers of this service, called "service providers," continue to be regulated as public utilities, though many provisions of law currently relating to telephone utilities are modified as they apply to this service. Local exchange carriers also remain subject to Public Utilities Commission jurisdiction to the extent their federal interconnection rights and obligations are regulated or overseen by the commission. All other providers of telephone services either remain unregulated or are largely deregulated, though certain provisions of the Maine Revised Statutes, Title 35-A are amended to apply to some of these entities, notably provisions relating to certain assessments, provisions granting certain rights to build lines in public roadways and across waters and provisions relating to joint use of facilities. A number of provisions of law are repealed entirely, either because they are obsolete or to conform with the streamlined regulatory structure established by the amendment.

Part A of this amendment, which relates mainly to providers of provider of last resort service and local exchange carriers, does the following.

1. It establishes various definitions for the various types of entities that provide telephone or telephone-like service.
2. It establishes provider of last resort service. This service is a basic local service provided by incumbent local exchange carriers unless a carrier petitions to have the service transferred to another entity willing to take on the responsibility and the commission determines the alternative provider can adequately meet the obligations. The service must have the capacity to maintain service during power outages, unless the commission finds that by waiving this requirement benefits would accrue to customers that would exceed the benefits to those customers of preserving the requirement.
3. It provides that customers of the service retain access to the commission for redress of problems relating to the service, regardless of what other services the customer takes from the service provider, but the other services are not thereby made subject to any commission regulation.
4. It provides that certain ancillary services closely related to the service, such as call forwarding and call waiting,

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must be offered, if at all, on an individual basis; the provider may not require the customer to take the ancillary services as a bundle.

5. It provides that the commission retains many of its traditional regulatory powers over the service, though some powers are modified as they apply to service providers, including:
  - A. The law governing management audits, which is changed to provide that the commission may only conduct such audits if no less burdensome means of obtaining information is available and certain preconditions are met;
  - B. The law governing accounting standards, which is changed to limit its application only to provider of last resort accounts and to require the commission's standards be based on applicable federal standards;
  - C. The law governing approval of stocks and bonds, which is modified to permit the commission by rule to exempt providers from some or all of its provisions; and
  - D. The law governing directories, which is modified to remove requirements for publication of directories but to provide that at least one more edition of directories be published and that going forward customers are given the option of receiving directory information electronically or as a printout of the electronic database.
6. It limits the commission's power to obtain certain information, prohibiting it from requiring:
  - A. Network maps more detailed than those that have been submitted in the past; and
  - B. Outage reporting earlier than 7 days after the outage is restored.
7. It provides that the rates for provider of last resort service are initially the current local rates. The commission is directed to establish a stakeholder group to develop the regulatory structure for setting rates going forward, including appropriate cost considerations and standards for the availability and amount of support from the universal service fund established in Title 35-A, section 7104. The commission is directed to report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by January 15, 2013, and the committee is authorized to report out a bill on this subject to the First Regular Session of the 126th Legislature.
8. The current alternative form of regulation that applies to the largest incumbent local exchange carrier in the State is altered so that most of its provisions, other than those relating to provider of last resort service, are phased out. The commission is directed to establish in an adjudicatory proceeding a limited set of service quality standards that will apply from August 1, 2012 through July 31, 2013. The commission is also directed to establish by major substantive rule service quality standards going forward, including appropriate incentive penalties for failures to meet the standards. The commission may impose penalties for failures to meet service quality standards only after investigation.
9. It preserves commission jurisdiction over local exchange carriers to the extent their federal interconnection rights and obligations are regulated or overseen by the commission.
10. It provides that providers of interconnected voice over Internet protocol service and dark fiber providers are not subject to regulation by the commission unless otherwise expressly provided in law. Certain discrete provisions do apply to such providers; Part B of the amendment addresses such discrete provisions.

Part B of the amendment, which includes provisions of law that affect a broader array of telephone entities than providers of provider of last resort service and local exchange carriers, does the following.

1. It requires any provider of interconnected voice over Internet protocol service that paid any commission or Office of the Public Advocate assessment under Title 35-A, section 116, whether voluntarily, by agreement with the

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commission or otherwise, prior to March 1, 2012, to continue to pay those assessments.

2. It modifies the commission's authority to obtain information so that with respect to any entity, other than a service provider with respect to provider of last resort service, the commission may only request or order information relating to laws to which the entity is subject and over which the commission has jurisdiction.

3. It provides that all voice service providers that use the public switched network must pay into a state universal service fund and the telecommunications education access fund. It also directs the commission to pursue all activities necessary to maximize the amount of federal support received by voice service providers offering voice and broadband service in the State.

4. It expands the universe of entities that are given the right to construct lines and facilities, including along public roadways, subject to permitting, to include all voice service providers, dark fiber providers and wholesale competitive local exchange carriers. It subjects these entities to the safety codes that apply to public utilities as well as the laws governing tree trimming. It also expands the jurisdiction of the commission to order joint use of equipment and prescribe reasonable compensation and reasonable terms and conditions for the joint use upon complaint to include voice service providers, dark fiber providers and wholesale competitive local exchange carriers.

5. It preserves a number of consumer protection laws, including laws governing customer privacy, caller-ID blocking, unauthorized billing and practices known as "slamming" and "cramming." The amendment streamlines the caller-ID blocking law and the "slamming" law in the same manner as proposed in the bill and prohibits the commission from requiring 3rd-party verification of customer authorization of charges billed by an affiliate of a telephone utility.

Part C of the amendment repeals the following:

1. The law regulating audiotext services;
2. Laws authorizing the commission to grant by rule exemptions for certain telephone utilities from certain provisions of law. These are obsolete provisions, given the modifications to laws made by the amendment;
3. The requirement that in order to obtain approval to furnish service, service providers and local exchange carriers furnish a bond;
4. The law governing emergency use of party lines;
5. The law providing for telephone regulation of cable television companies that offer telephone services;
6. The law requiring a public utility that operates a radio paging service to maintain separate accounts;
7. The law requiring a public utility that provides mobile telecommunications in addition to other public utility services to maintain separate accounts; and
8. As of August 1, 2013, the law authorizing the commission to adopt an alternative form of regulation for telephone utilities.

Part D of the amendment makes several technical changes to laws to conform to the telecommunications regulatory reform accomplished by the amendment. It also:

1. Specifies that rights and obligations under orders relating to the merger of FairPoint Communications, Inc. and Verizon Communications Inc. are unaffected by telecommunications regulatory reform;

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2. Provides that any approval to provide service granted by the Public Utilities Commission under Title 35-A, section 2102 prior to the effective date of this law is unaffected by telecommunications regulatory reform;
3. Directs the commission to examine whether it is appropriate to require any voice service providers that are not required to pay assessments under Title 35-A, sections 116, 7104 and 7104-B to pay such assessments and if so the reasons why they should be included and how they may appropriately and fairly be included. The commission is directed to submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and technology matters by January 15, 2013. The joint standing committee may report out a bill related to the subject of the report to the First Regular Session of the 126th Legislature; and
4. Directs the commission to review the provisions of Title 35-A and the commission's implementing rules relating to or affecting telecommunications to determine what, if any, further changes to law are required to clarify or bring into effect the regulatory changes made by this law. The commission is specifically directed to examine whether the expansion of the application of Title 35-A, section 711 creates any regulatory or other issues that should be addressed. The commission is authorized to submit a bill to the First Regular Session of the 126th Legislature proposing any recommended changes to law to clarify, adjust or bring into effect the regulatory changes made by this law.

### **Enacted Law Summary**

Public Law 2011, chapter 623 establishes a new regulatory structure for the telephone industry. It establishes a regulated basic local flat-rate dial-tone service called "provider of last resort service." Providers of this service, called "service providers," continue to be regulated as public utilities, though many provisions of law currently relating to telephone utilities are modified as they apply to this service. Local exchange carriers also remain subject to Public Utilities Commission jurisdiction to the extent their federal interconnection rights and obligations are regulated or overseen by the commission. All other providers of telephone services either remain unregulated or are largely deregulated, though certain provisions of the Maine Revised Statutes, Title 35-A are amended to apply to some of these entities, notably provisions relating to certain assessments, provisions granting certain rights to build lines in public roadways and across waters and provisions relating to joint use of facilities. A number of provisions of law are repealed entirely, either because they are obsolete or to conform with the streamlined regulatory structure established by this law.

Part A, which relates mainly to providers of provider of last resort service and local exchange carriers, does the following.

1. It establishes various definitions for the various types of entities that provide telephone or telephone-like service.
2. It establishes provider of last resort service. This service is a basic local service provided by incumbent local exchange carriers unless a carrier petitions to have the service transferred to another entity willing to take on the responsibility and the commission determines the alternative provider can adequately meet the obligations. The service must have the capacity to maintain service during power outages, unless the commission finds that by waiving this requirement benefits would accrue to customers that would exceed the benefits to those customers of preserving the requirement.
3. It provides that customers of the service retain access to the commission for redress of problems relating to the service, regardless of what other services the customer takes from the service provider, but the other services are not thereby made subject to any commission regulation.
4. It provides that certain ancillary services closely related to the service, such as call forwarding and call waiting, must be offered, if at all, on an individual basis; the provider may not require the customer to take the ancillary services as a bundle.
5. It provides that the commission retains many of its traditional regulatory powers over the service, though some

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powers are modified as they apply to service providers, including:

- A. The law governing management audits, which is changed to provide that the commission may only conduct such audits if no less burdensome means of obtaining information is available and certain preconditions are met;
  - B. The law governing accounting standards, which is changed to limit its application only to provider of last resort accounts and to require the commission's standards be based on applicable federal standards;
  - C. The law governing approval of stocks and bonds, which is modified to permit the commission by rule to exempt providers from some or all of its provisions; and
  - D. The law governing directories, which is modified to remove requirements for publication of directories but to provide that at least one more edition of directories be published and that going forward customers are given the option of receiving directory information electronically or as a printout of the electronic database.
6. It limits the commission's power to obtain certain information, prohibiting it from requiring:
- A. Network maps more detailed than those that have been submitted in the past; and
  - B. Outage reporting earlier than 7 days after the outage is restored.
7. It provides that the rates for provider of last resort service are initially the current local rates. The commission is directed to establish a stakeholder group to develop the regulatory structure for setting rates going forward, including appropriate cost considerations and standards for the availability and amount of support from the universal service fund established in Title 35-A, section 7104. The commission is directed to report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by January 15, 2013, and the committee is authorized to report out a bill on this subject to the First Regular Session of the 126th Legislature.
8. The current alternative form of regulation that applies to the largest incumbent local exchange carrier in the State is altered so that most of its provisions, other than those relating to provider of last resort service, are phased out. The commission is directed to establish in an adjudicatory proceeding a limited set of service quality standards that will apply from August 1, 2012 through July 31, 2013. The commission is also directed to establish by major substantive rule service quality standards going forward, including appropriate incentive penalties for failures to meet the standards. The commission may impose penalties for failures to meet service quality standards only after investigation.
9. It preserves commission jurisdiction over local exchange carriers to the extent their federal interconnection rights and obligations are regulated or overseen by the commission.
10. It provides that providers of interconnected voice over Internet protocol service and dark fiber providers are not subject to regulation by the commission unless otherwise expressly provided in law. Certain discrete provisions do apply to such providers; Part B of the law addresses such discrete provisions.

Part B, which includes provisions of law that affect a broader array of telephone entities than providers of provider of last resort service and local exchange carriers, does the following.

1. It requires any provider of interconnected voice over Internet protocol service that paid any commission or Office of the Public Advocate assessment under Title 35-A, section 116, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012, to continue to pay those assessments.
2. It modifies the commission's authority to obtain information so that with respect to any entity, other than a service provider with respect to provider of last resort service, the commission may only request or order information



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relating to laws to which the entity is subject and over which the commission has jurisdiction.

3. It provides that all voice service providers that use the public switched network must pay into a state universal service fund and the telecommunications education access fund. It also directs the commission to pursue all activities necessary to maximize the amount of federal support received by voice service providers offering voice and broadband service in the State.
4. It expands the universe of entities that are given the right to construct lines and facilities, including along public roadways, subject to permitting, to include all voice service providers, dark fiber providers and wholesale competitive local exchange carriers. It subjects these entities to the safety codes that apply to public utilities as well as the laws governing tree trimming. It also expands the jurisdiction of the commission to order joint use of equipment and prescribe reasonable compensation and reasonable terms and conditions for the joint use upon complaint to include voice service providers, dark fiber providers and wholesale competitive local exchange carriers.
5. It preserves a number of consumer protection laws, including laws governing customer privacy, caller-ID blocking, unauthorized billing and practices known as "slamming" and "cramming." The amendment streamlines the caller-ID blocking law and the "slamming" law in the same manner as proposed in the bill and prohibits the commission from requiring 3rd-party verification of customer authorization of charges billed by an affiliate of a telephone utility.

Part C repeals the following:

1. The law regulating audiotext services;
2. Laws authorizing the commission to grant by rule exemptions for certain telephone utilities from certain provisions of law.
3. The requirement that in order to obtain approval to furnish service, service providers and local exchange carriers furnish a bond;
4. The law governing emergency use of party lines;
5. The law providing for telephone regulation of cable television companies that offer telephone services;
6. The law requiring a public utility that operates a radio paging service to maintain separate accounts;
7. The law requiring a public utility that provides mobile telecommunications in addition to other public utility services to maintain separate accounts; and
8. As of August 1, 2013, the law authorizing the commission to adopt an alternative form of regulation for telephone utilities.

Part D makes several technical changes to laws to conform to the telecommunications regulatory reform accomplished by this law. It also:

1. Specifies that rights and obligations under orders relating to the merger of FairPoint Communications, Inc. and Verizon Communications Inc. are unaffected by telecommunications regulatory reform;
2. Provides that any approval to provide service granted by the Public Utilities Commission under Title 35-A, section 2102 prior to the effective date of this law is unaffected by telecommunications regulatory reform;
3. Directs the commission to examine whether it is appropriate to require any voice service providers that are not

