

Date:

(Filing No. H-)

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 355, L.D. 536, “An Act to Establish Net Neutrality”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 10 MRSA c. 239 is enacted to read:

CHAPTER 239

NET NEUTRAL BROADBAND INTERNET ACCESS SERVICE

§1500-Z. Net neutral service required

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Broadband Internet access service" has the same meaning as in Title 5, section 1541-B, subsection 1, paragraph B.

B. "Internet service provider" has the same meaning as in Title 5, section 200-B, subsection 1-A, paragraph A.

C. "Net neutral service" has the same meaning as in Title 5, section 1541-B, subsection 1, paragraph E.

D. "Paid prioritization" has the same meaning as in Title 5, section 1541-B, subsection 1, paragraph F.

E. "Reasonable network management practice" means a practice that has a primarily technical network management justification and is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service. "Reasonable network management practice" includes a practice necessary to ensure sufficient capacity for customers of the Internet service provider if the practice is

1 implemented on a nondiscriminatory basis. "Reasonable network management
2 practice" does not include other business practices.

3 F. "Throttling" has the same meaning as in Title 5, section 1541-B, subsection 1,
4 paragraph I.

5 **2. Net neutral service required.** An Internet service provider shall provide net neutral
6 service in the provision of broadband Internet access service to customers in the State.

7 **3. Unfair trade practice violation.** A violation of this section constitutes a violation
8 of the Maine Unfair Trade Practices Act, except that a person may not bring a private action
9 under Title 5, section 213 based on a violation of this section.

10 **4. Construction.** This section does not:

11 A. Prohibit reasonable efforts by an Internet service provider providing broadband
12 Internet access service to address copyright infringement or other unlawful activity;

13 B. Supersede any obligations, authorizations or restrictions on an Internet service
14 provider providing broadband Internet access service to address the needs of
15 emergency communications or law enforcement, public safety or national security
16 authorities under the laws of the State and the United States of America and the United
17 States Constitution and the Constitution of Maine; or

18 C. Prohibit an Internet service provider from offering broadband Internet access service
19 plans that differ in speed or data limits, or offering plans with income-based eligibility,
20 promotional offers or legacy pricing, as long as all lawful Internet traffic is treated
21 equally within each plan and such plans are offered on a nondiscriminatory basis.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
23 number to read consecutively.

24 SUMMARY

25 This amendment replaces the bill, which is a concept draft. The amendment requires
26 an Internet service provider to provide net neutral service in the provision of broadband
27 Internet access service to customers in the State. It specifies that the legislation does not
28 prohibit reasonable efforts by an Internet service provider providing broadband Internet
29 access service to address copyright infringement or other unlawful activity or supersede
30 any obligations, authorizations or restrictions on an Internet service provider to address the
31 needs of emergency communications or law enforcement, public safety or national security
32 authorities. It also specifies that an Internet service provider may offer broadband Internet
33 access service plans that differ in speed or data limits, or offer plans with income-based
34 eligibility, promotional offers or legacy pricing, as long as all lawful Internet traffic is
35 treated equally within each plan and such plans are offered on a nondiscriminatory basis.
36 A violation of the requirements of this legislation is a violation of the Maine Unfair Trade
37 Practices Act, except the amendment states that private remedies under the Maine Unfair
38 Trade Practices Act are not available.