

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Law Regarding Joint Use of Certain Utility and Telecommunications Infrastructure

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

Sec. 1. 35-A MRSA §711, as amended by PL 2011, c. 623, Pt. B, §4, is further amended to read:

§ 711. Joint use of equipment

1. Joint use permitted. The commission may order that joint use be permitted and prescribe reasonable compensation and reasonable terms and conditions for the joint use when, ~~after a hearing had upon its own motion or upon complaint of a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system affected,~~ it finds the following:

A. That public convenience and necessity require the use by one public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier ~~or~~, cable television system, unlit fiber provider, telecommunications service provider or information service provider of the conduits, subways, wires, poles, pipes or other equipment, or any part of them, on, over or under any street or highway and belonging to another public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier ~~or~~, cable television system, unlit fiber provider, telecommunications service provider or information service provider; and

B. That joint use will not result in irreparable injury to the owner or other users of the conduits, subways, wires, poles, pipes or other equipment or in any substantial detriment to the service; ~~and,~~

C. That the ~~public utilities, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system have failed to agree upon the use or the terms and conditions or compensation for the use.~~

2. Liability of user. If joint use is ordered, the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier ~~or~~, cable television system, unlit fiber provider, telecommunications service provider or information service provider to whom the use is permitted is liable to the owner or other users of the conduits, subways, wires, poles, pipes or other equipment for damage that may result from its use to the property of the owner or other users.

3. Interests of subscribers. Any actions taken or orders issued by the commission under this section ~~shall~~must take into account the interests of the subscribers of the affected voice service provider, dark fiber provider, wholesale competitive local exchange carrier, cable television system, unlit fiber provider, telecommunications service provider or information service provider, as well as the customers of the affected public utilities.

4. Rules. The commission shall adopt a ~~rule~~rules governing the ~~resolution of pole attachment rate disputes~~ joint use. ~~The~~In establishing compensation or rates, the commission shall consider various formulas, including, but not limited to, the formula adopted by the Federal Communications Commission as codified in 47 Code of Federal Regulations, Part 1, Subpart J, as amended.

5. Dark fiber provider. ~~This section applies to a dark fiber provider only with respect to the construction and maintenance of federally supported dark fiber.~~

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

- A. "Information service" has the same meaning as in 47 United States Code, Section 153(24).
- B. "Telecommunications service" has the same meaning as in 47 United States Code, Section 153(53).
- C. "Unlit fiber" means one or more strands within a bundle of fiber-optic cable through which an associated light signal or light communication transmission must be provided to provide communications service, but excluding the electronic equipment required in order to render the fiber capable of transmitting communications.

SUMMARY

This bill makes the following changes to the laws governing joint use of equipment regulated by the Public Utilities Commission.

1. It changes the conditions under which the commission may order joint use of equipment by eliminating the requirement that a hearing be held upon the commission's motion or that a complaint be filed by an affected entity before the commission may order joint use of equipment. It also eliminates the requirement that the commission find that the parties have failed to agree on the terms and conditions or compensation for the joint use of equipment before the commission may enter an order.
2. It adds unlit fiber providers, telecommunications service providers and information service providers to the list of entities that may be subject to an order for joint use of equipment.
3. It expands the types of subscribers whose interests must be taken into account by the commission when taking actions or issuing orders related to joint use of equipment.
4. It requires the commission to adopt rules governing joint use of equipment.