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No. 1479

H.P. 1060

House of Representatives, April 30, 2013

An Act To Clarify Telecommunications Regulation Reform

Reported by Representative HOBBS of Saco for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Public Law 2011, chapter 623, Part A, section 25 and Part D, section 7.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland

MILLCENT M. MacFARLAND

Clerk

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

2 **Sec. 1. 35-A MRSA §116, sub-§1**, as amended by PL 2011, c. 623, Pt. B, §1, is
3 further amended to read:

4 **1. Entities subject to assessments.** Every transmission and distribution, gas,
5 telephone and water utility and ferry subject to regulation by the commission and every
6 qualified telecommunications provider is subject to an assessment on its intrastate gross
7 operating revenues to produce sufficient revenue for expenditures allocated by the
8 Legislature for the Public Utilities Commission Regulatory Fund established pursuant to
9 this section. The budget for the Public Utilities Commission Regulatory Fund is subject
10 to legislative review and approval in accordance with subsection 2. The portion of the
11 total assessment applicable to each category of public utility or qualified
12 telecommunications provider is based on an accounting by the commission of the portion
13 of the commission's resources devoted to matters related to each category. The
14 commission shall develop a reasonable and practicable method of accounting for
15 resources devoted by the commission to matters related to each category of public utility
16 or qualified telecommunications provider. Assessments on each public utility or qualified
17 telecommunications provider within each category must be based on the utility's or
18 qualified telecommunications provider's gross intrastate operating revenues. The
19 commission shall determine the assessments annually prior to May 1st and assess each
20 utility or qualified telecommunications provider for its pro rata share for expenditure
21 during the fiscal year beginning July 1st. Each utility or qualified telecommunications
22 provider shall pay the assessment charged to the utility or qualified telecommunications
23 provider on or before July 1st of each year. Any increase in the assessment that becomes
24 effective subsequent to May 1st may be billed on the effective date of the act authorizing
25 the increase.

26 A. The assessments charged to utilities and qualified telecommunications providers
27 under this section are just and reasonable operating costs for rate-making purposes.

28 B. For the purposes of this section, "intrastate gross operating revenues" means
29 ~~intrastate revenues derived from filed rates and rates charged by a qualified~~
30 ~~telecommunications provider, except revenues derived from sales for resale.;~~

31 (1) In the case of all utilities except telephone utilities, revenues derived from
32 filed rates;

33 (2) In the case of a telephone utility, all intrastate revenues, whether or not such
34 rates are required to be filed pursuant to this Title; and

35 (3) In the case of a qualified telecommunications provider, all intrastate revenues
36 except revenues derived from sale or resale.

37 C. Gas utilities subject to the jurisdiction of the commission solely with respect to
38 safety are not subject to any assessment.

39 D. The commission may correct any errors in the assessments by means of a credit or
40 debit to the following year's assessment rather than reassessing all utilities or
41 qualified telecommunications providers in the current year.

1 E. The commission may exempt utilities or qualified telecommunications providers
2 with annual intrastate gross operating revenues under \$50,000 from assessments
3 under this section.

4 For purposes of this section, "qualified telecommunications provider" means a ~~provider~~
5 ~~of person that provides~~ interconnected voice over Internet protocol service ~~that paid any~~
6 ~~assessment under this subsection, whether voluntarily, by agreement with the commission~~
7 ~~or otherwise, prior to March 1, 2012~~ over facilities that it, or an affiliated company, owns
8 or leases.

9 **Sec. 2. 35-A MRSA §7104, sub-§3, ¶D**, as amended by PL 2011, c. 623, Pt. B,
10 §14, is further amended to read:

11 D. Ensure that any requirements regarding contributions to a state universal service
12 fund ~~be~~ are nondiscriminatory and competitively neutral; ~~and~~

13 **Sec. 3. 35-A MRSA §7104, sub-§3, ¶G**, as enacted by PL 2011, c. 623, Pt. B,
14 §14, is amended to read:

15 G. Require, if a voice network service provider recovers its contributions under this
16 section by means of a charge placed on a bill issued to a customer, explicit
17 identification on that bill of any charge imposed under this section; and

18 **Sec. 4. 35-A MRSA §7104, sub-§3, ¶H** is enacted to read:

19 H. Ensure that the total amount distributed for support to providers of provider of
20 last resort service does not exceed \$7,500,000.

21 **Sec. 5. 35-A MRSA §7104, sub-§9** is enacted to read:

22 **9. Increase of universal service fund support.** If the commission determines
23 through an expedited emergency rate case under section 7222, subsection 3 or an
24 investigation into a general increase in rates under chapter 3 that a provider of provider of
25 last resort service requires support greater than the amounts permitted under subsection 3,
26 paragraph H, the commission shall submit a report regarding the amount needed to the
27 joint standing committee of the Legislature having jurisdiction over energy, utilities and
28 technology matters. The joint standing committee of the Legislature having jurisdiction
29 over energy, utilities and technology matters may submit legislation based on the report.

30 **Sec. 6. 35-A MRSA §7221, sub-§2, ¶A** is enacted to read:

31 A. The commission may not assign the provider of last resort service obligation for a
32 given geographic area to another voice service provider without the consent of the
33 service provider unless the commission finds through an investigation that the service
34 provider is unable to provide provider of last resort service in accordance with this
35 chapter.

36 **Sec. 7. 35-A MRSA §7222**, as enacted by PL 2011, c. 623, Pt. A, §18, is amended
37 to read:

1 **§7222. Revenue requirements of service providers**

2 The initial rates for provider of last resort service are those rates in effect for basic
3 local exchange service for each incumbent local exchange carrier in the service area of
4 that carrier as of January 1, 2012.

5 **1. Change in rates.** A service provider may file for a rate increase in accordance
6 with chapter 3.

7 **2. Establishment of rates; requirements.** In addition to the requirements of
8 chapter 3, when establishing the revenue requirements for a service provider and the rates
9 for provider of last resort service, the commission shall ensure that the rates for provider
10 of last resort service are:

11 A. Uniform throughout the State for that service provider;

12 B. At the time the rate is set by the commission, within 2 standard deviations of the
13 national average price for voice service as determined by the Federal
14 Communications Commission; and

15 C. Not set at a level that will jeopardize the receipt of federal funds to support
16 telecommunications services.

17 **3. Emergency rate case.** A service provider may petition the commission for
18 expedited approval of an emergency rate increase in accordance with this subsection.

19 A. The service provider must provide the following information to the commission
20 when submitting the petition:

21 (1) An annual report for the test year;

22 (2) Expenses, revenues and rate base during the test year, itemized by account
23 number or functional grouping;

24 (3) Uncollectible revenues for the test year, including bad debt expenses, gross
25 write-offs and recoveries of prior write-offs;

26 (4) The number of units of service billed for each rate element of service;

27 (5) Local service revenues, all toll service revenues and miscellaneous revenues
28 for the test year;

29 (6) A statement of the service provider's revenue requirement for the test year;
30 and

31 (7) A proposed schedule of provider of last resort service rates that meet the
32 requirements of subsection 2.

33 For the purposes of this paragraph, "test year" means the most recent complete
34 calendar year.

35 B. The commission may approve an emergency rate increase if the commission
36 determines that the revenue requirement pursuant to paragraph A, subparagraph (6) is
37 reasonably likely to be equal to or less than the revenue requirement that would be
38 identified through a full investigation under section 310. The commission shall

1 complete the emergency rate case within 60 days of the submission of the petition
2 under paragraph A.

3 C. The commission may determine that immediately raising the rates of a service
4 provider is not in the public interest and may establish a method to incrementally
5 collect the amount of the emergency rate increase over an extended period of time.

6 D. The emergency rate increase expires 3 months after the completion of the
7 emergency rate case unless the service provider files a schedule for a general rate
8 increase under chapter 3. If the service provider files a schedule for a general increase
9 in rates under chapter 3 within 3 months after the completion of the emergency rate
10 case, the emergency rate increase expires upon the completion of any investigation
11 initiated by the commission in response to that filing.

12 E. If the commission determines after an investigation in response to a general rate
13 increase filing under chapter 3 that the service provider's revenue requirement is less
14 than the revenue requirement approved through the emergency rate case, any excess
15 revenue must be returned to the service provider's ratepayers in the form of a bill
16 credit.

17 F. If the commission determines after an investigation in response to a general rate
18 increase filing under chapter 3 that the service provider's revenue requirement is
19 greater than the revenue requirement approved through the emergency rate case, the
20 provider may not recover the difference in future provider of last resort service rates.

21 **SUMMARY**

22 This bill limits the amount of funds a provider of provider of last resort service can
23 receive from the state universal service fund. The bill establishes a procedure for the
24 Public Utilities Commission to conduct an emergency rate case in response to a petition
25 for a temporary increase in rates.

26 This bill provides that the Public Utilities Commission may not reassign the provider
27 of last resort service obligation without the consent of the current service provider unless
28 that provider is unable to provide the service in accordance with state law. This bill
29 provides that the rate charged to customers for provider of last resort service must be
30 uniform throughout the State for a service provider, must be within 2 standard deviations
31 of the national average and may not be set at a level that will jeopardize the receipt of
32 federal funding to support telecommunications services.

33 This bill amends the section of law related to the assessment to fund the Public
34 Utilities Commission and the Office of the Public Advocate to include all utilities that
35 were included prior to the enactment of Public Law 2011, chapter 623. It expands the
36 assessment to include a person that provides voice over Internet protocol service over
37 facilities that it, or an affiliated company, owns or leases, regardless of whether that
38 service provider paid the assessment prior to March 1, 2012.

39 This bill is reported out by the Joint Standing Committee on Energy, Utilities and
40 Technology pursuant to Public Law 2011, chapter 623, Part A, section 25 and Part D,
41 section 7. As required by the public law, the Public Utilities Commission submitted to

1 the committee a report to create a framework for establishing rates for provider of last
2 resort service and a report regarding assessments paid by voice service providers on
3 January 15, 2013.

4 The Joint Standing Committee on Energy, Utilities and Technology has not taken a
5 position on the substance of this bill and by reporting this bill out the committee is not
6 suggesting and does not intend to suggest that it agrees or disagrees with any aspect of
7 this bill. The committee is reporting the bill out for the sole purpose of turning the issues
8 raised in the Public Utilities Commission's reports into a printed bill that can be referred
9 to the committee for an appropriate public hearing and subsequent processing in the
10 normal course. The committee is taking this action to ensure clarity and transparency in
11 the legislative review of the framework for setting the rates for provider of last resort
12 service.