



Testimony in **support** of LD 1223: *“An Act to Clarify Cost Allocations and Insurance in the Joint Use of Public Utility Equipment.”*

Senator Lawrence, Representative Zeigler, and fellow members of the Joint Standing Committee on Energy, Utilities, and Technology.

This legislation consists of two changes that would bring clarity, consistency, and fairness to Maine municipalities investing public funds to provide universal broadband service for their residents and businesses.

Some of our member municipalities brought this issue to our attention, as they have struggled at times to come to terms with pole owners on cost allocations and on insurance requirements. For example, earlier this year, PUC rapid response case 2023-00063 was determined in favor of the pole owner against the town of Somerville. The PUC staff determined that Maine law requires that all pole attachers be treated equally, and is now investigating.

LD 1223 would clarify that the legislature sees municipal attachers as deserving of relief in exchange for the service they provide. Publicly-owned networks supply valuable in-kind contributions by administering federal, state, and local taxpayer dollars and dedicating any returns to those investments to future public use. These projects are only pursued in places where the private sector providers failed to deliver universal service. We believe that these pole attachers should receive this treatment, as they use local resources and public grants to deliver what the private providers have not. Rural communities such as Calais, Baileyville, Indian Township, Alexander, Liberty, Islesboro, Georgetown, Somerville, and many others are pursuing variations of this model. We should support these initiatives to be successful wherever they are.

Our support for this bill is predicated on the understanding that **towns will not be the installers or operators of broadband equipment**. That work is done by the towns' contracted internet service providers, or ISP subcontractors, each with their own licenses and insurances.

Here are the problems this bill addresses:

1. The changes to subpart 2-A clarify cost allocations for municipalities attaching to poles. This is particularly important for municipality-owned networks, where the start-up costs for attachments are high and the project is in the pre-revenue stage.
2. Subpart 2-B limits the ability of pole owners to dictate terms of the municipality's insurances. Municipal liability is limited by Maine tort law. Pole owners, such as CMP in the Somerville case, are refusing to accept the liability policy held by Maine municipalities and brokered by Maine Municipal Association as sufficient to cover risks. However, by far the highest risk aspect of broadband deployment and operations is the initial installation. Internet service providers and their contractors do this work, not municipalities, and they carry sufficient liability insurance for it. The amount and type of insurance that these contractors carry is standardized by industry practice. Pole owners demanding unnecessary supplemental insurance increases costs for municipally-owned networks above those that would be owned privately.

We would not support changes to the law that would limit the liability insurance held by contractors who will do the work of attaching to utility poles. We would welcome clarification of Subpart 2-B in this regard, should it be deemed necessary by the committee.

Thank you for your attention to cost allocations and insurances for pole attachments, which are essential to delivering high-quality broadband in Maine.

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