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LD 1967

Testimony of Michael Edgecomb

In Support of LD 1967, An Act to Support Municipal Franchise Agreements

Committee on Energy, Utilities and Technology

10/25/2023

Senator Lawrence, Representative Ziegler, and members of the Committee on Energy, Utilities, and Technology.

I Present my testimony in support of LD 1967 “An Act To Support Municipal Franchise Agreements.”

I have been employed in the Cable TV industry for over 40 years, which includes providing internet/broadband for the past 25 years. I negotiated franchise renewals for FrontierVison Cable, Adelphia, and Time Warner. I also Lobbied for Adelphia and Time Warner for 17 years.

I have performed many ride-outs, mapping locations that lack CATV, and also internet services, in hundreds of Cities and Towns in Maine from Aroostook, Down East, to York Counties. As a result of this work, I have an extensive grasp of CATV and Broadband service areas in Maine.

I have also served as a consultant for franchise renewals for Cities and Towns for the past 7 years.

Most recently I have performed make ready ride outs for broadband companies expanding into unserved areas.

This bill was endorsed by the MMA LPC on January 26 and The Maine Community Media Association has worked with the Sponsor to receive input with changes from Chairman Phillip Bartlett and Commissioner Patrick Scully at the PUC in May and more recently from Deputy Attorney General Chris Taub last month. Both of these departments modified their roles in the original bill from a regulatory oversight function to mediation and arbitration services that will provide municipalities with a less expensive option than litigation when addressing non-compliance issues with the Video Service Providers that can't be resolved at the local level.

Wherever Charter provides Cable service they also provide broadband service through the same cables and wires. Cities and Towns in Maine struggle to negotiate line extensions in their communities, unless they go to the polls, and vote to build their own broadband system. Then Charter is then more than willing to expand, and provide franchises in unserved areas, to thwart municipally owned broad band systems.

The Federal Cable Act provides that a when awarding a franchise, the franchising authority “shall allow the applicant’s cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area.”

47 U.S.C. § 541(a)(4)(A).

(4) In awarding a franchise, the franchising authority—

(A) shall allow the applicant’s cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area;

(B) may require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; and

(C) may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

It is clear from this section of the Cable Act that the FCC meant for Cable operators to

service all households in the community. I have asked Charter Representatives several times for their interpretation of this section. To-date they have refused to comment, other than say: "We are allowed reasonable time to do required line extensions." When pressed on the "all households" wording, they will not reply.

Charter has tried several tricks to subvert the required 15HPM standard for line extensions, (Title 30-A, Chapter 141, §3008. 5 B), including requiring potential customers to sign a two-year contract, or counting over lash as footage, and refusing to count houses if they are a certain distance from the highway. We thought the law was clear in specifying strand mileage, but this legislation tightens this definition up, and hopefully makes it clear that only the required additional strand to be run can be included as extension footage.

In 2017 I was a consultant to a group of cities and Towns, including Bangor, Brewer, Orono, Veazie, Ellsworth, and many surrounding towns. I was clear that Charter was not going to negotiate in good faith, and we were at an impasse. We asked for a senior representative from Charter to appear and defend their position. After much delay a VP of Franchising met with the group in Bangor. The group also had their attorney in attendance who was well versed and practicing in cable franchising law. The group's attorney reminded the Charter VP of Franchising that they were in clear violation of the law. The reply was smug: "If you don't like it take us to court!" He repeated this phrase several times in the ensuing conversation. They know Cities, no matter how large, and Towns cannot afford court action. Charter has demonstrated in the court cases fighting Maine's 15HPM law, and the pro rate law, that they are more than willing to spend hundreds of thousands of dollars in court.

Charter may respond that they have negotiated hundreds of franchises. I am certain most of these were "Take it. Or leave it" negotiations. Most Cities and Towns in Maine do not have the expertise, time, or the budgets to properly negotiate a franchise that will provide for the best interests of the communities as required by law.

Originally, it was hoped that LD 1967 would establish a cable office, or a legal advocate, either in the Attorney General's Office, or the PUC. The existing language in the bill is a compromise to this concept.

I urge this committee to support this bill, to assist Maine communities in fairly negotiating franchises, to improve Cable TV services, Public and Education Channels, and broadband coverage in Maine.

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