
TELECOMMUNICATIONS ASSOCIATION OF MAINE

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Senator Mark Lawrence, Senate Chair
Representative Seth Berry, House Chair
Members of the Energy, Utilities and Technology Committee
130th Maine Legislature
100 State House Station
Augusta, ME 04333

RE: LD 251, An Act Regarding Public Utility Assessments, Fees and Penalties

The Telecommunications Association of Maine (TAM) offers the following comments in opposition to LD 251, "An Act Regarding Public Utility Assessments, Fees and Penalties".

TAM's members are all public utilities who would be impacted by the provision in this legislation regarding filing fees with the Commission. The proposed legislation would shift to a filing fee equal to 0.05% of the "total value of the corporation or entity resulting from the proposed reorganization". Recent reorganizations in the communications industry, especially with companies such as TAM's members, often consist of large diversified entities obtaining a stake in ownership of a company without changing the organizational or management structure of a company. Under the statutory definition of a reorganization, a reorganization occurs when there is some form of transfer of control of an affiliated interest or creation or dissolution of an affiliated interest. Under 35-A MRS § 707(1)(A)(2), for Providers of Last Resort an affiliated interest includes an entity with a 25% ownership of or by the Provider of Last Resort, or "Any person, or group of persons acting in concert, that the commission may determine, after investigation and hearing, exercises substantial influence over the policies and actions of a provider of provider of last resort service, if the person or group of persons beneficially owns more than 3% of the provider's voting securities". This new filing fee would therefore not only be triggered on a complete transfer of ownership of a utility, but potentially when a utility forms an affiliate that they in part own or are owned by. In this scenario, it is not clear what the "entity resulting from the reorganization" would be. Is it the affiliate? Is it the utility? As a real world example, there could be an investment group whose business interest outside of the public utility sphere results in a net worth of \$1 billion for the investment company. The investment group wishes to recapitalize the utility and in return the investment group will receive a 25% ownership in the company, but the activity and management of the company would not change. Under this legislation there would be a \$500,000 filing fee for this recapitalization. That creates a significant disincentive for outside investors to provide the type of capital infusions that Provider of Last Resort companies need to improve networks in rural areas capable of improving speeds and capacity of broadband service for customers.

Accordingly, TAM would urge this committee to vote OUGHT NOT TO PASS on LD 251, "An Act Regarding Public Utility Assessments, Fees and Penalties".

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Sanborn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Benjamin M. Sanborn, Esq.
Telecommunications Association of Maine