

Office of Policy and Legal Analysis

Date: April 15, 2021
To: Joint Standing Committee on Energy, Utilities and Technology
From: Dan Tartakoff, Legislative Analyst
Re: LD 511, An Act To Require Telephone Service Providers To Provide at No Cost to Customers Services Designed To Reduce the Number of So-called Robocalls and Automatically Dialed Telephone Calls (Representative Dodge)

Bill summary

Beginning January 1, 2022, this bill requires telephone utilities that offer any service to subscribers in the State designed to reduce the number of calls received by a subscriber that are made using an automated telephone calling device or an artificial or prerecorded voice to offer the service free of cost to all subscribers in the State.

List of legislators/entities that submitted written testimony and/or spoke at the hearing

Proponents – Representative Dodge, Office of the Public Advocate, additional members of the public.

Opponents – none.

Neither for nor against – CTIA, Telecommunications Association of Maine.

Notes, issues and proposed amendments

1. *Sponsor's proposed amendment* – proposed amendment distributed at the hearing would clarify that a telephone utility must (1) inform each subscriber of the nature and cost of any robocall blocking services it offers and how the subscriber may take advantage of such services and (2) must offer such services at a “reasonably affordable cost.”
2. *Regulated entities* – questions were raised at the hearing regarding the scope of entities regulated under the bill. As used in the bill/amendment, the term “telephone utility” has the following meaning (from 35-A MRSA §102(19)):

"Telephone utility" includes every person, its lessees, trustees, receivers or trustees appointed by any court, that provides telephone service for compensation inside this State. "Telephone utility" also includes a dark fiber provider. "Telephone utility" does not include any person or entity that is excluded from the definition of "public utility" as defined in subsection 13, subject to the provisions of subsection 13, paragraphs A to C.

As referenced in the second sentence of the above definition, the definition of “public utility” under 35-A MRSA §102(13) contains the following exclusions, which under §102(19) are also excluded from the definition of “telephone utility”:

"Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

As suggested by the Public Advocate at the hearing, this definition of “telephone utility” accordingly does not appear to include cellular/mobile telephone providers.

3. *Federal/ national activities* – as noted in the testimony provided by multiple entities/speakers, there has been a good deal of recent action at the federal level and nationally to address the robocall issue.
 - Within the wireless industry, it was noted that the STIR/SHAKEN system is being implemented to address robocalls in a number of ways; there is an ongoing partnership between national wireless providers to offer free call blocking and labeling and take other actions with respect to robocalls; and there are ongoing consumer education efforts.
 - As noted by the sponsor, the federal TRACED Act of 2019 amended the Telephone Consumer Protection Act (TCPA) to direct the FCC to, among other things, require robocall blocking services be provided to consumers at no additional line charge. The status of that FCC action is unclear; according to the sponsor, the action has been challenged.
4. *Provision of information, questions* – in written and oral testimony, the Telecommunications Association of Maine questioned how/when telephone utilities would be required to inform subscribers of the nature and cost of robocall services offered and how to enroll in those services (as provided in the amended version of the bill). At a point of sale? On a website? In a bill stuffer?

Fiscal information

Not yet available from OFPR.