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PUBLIC UTILITIES COMMISSION

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Testimony of the Maine Public Utilities Commission

Neither for Nor Against

LD 1894, An Act To Support Municipal Broadband Infrastructure through Incentives and Competition (Sponsor's Amendment)

February 3, 2022

Senator Lawrence, Representative Berry, and honorable members of the Joint Standing Committee on Energy, Utilities, and Technology, the Public Utilities Commission (Commission) testifies neither for nor against LD 1894; however, we have concerns with the language in section 1 of the Sponsor's Amendment (Amendment). Specifically:

1. It is unclear what is meant by "utility delivery system" as this terminology is not defined in the Amendment and not used elsewhere in Title 35-A;
2. The Commission is uncertain what is intended by the requirement that the Commission adopt rules "governing the provision of service that may be provided on the broadband or other Internet access systems;" and
3. The Commission is unsure of what specific issue this section is attempting to address.

1. The terminology "utility delivery system" is unclear in the context in which it is used in the Amendment,

Section 1 of the Amendment specifies:

A consumer-owned transmission and distribution utility, a consumer-owned water utility or a regional municipal utility district formed pursuant to Title 30-A, section 2203, subsection 9, may own, lease, construct, maintain and operate broadband or other Internet access systems on the utility's delivery system and may provide broadband or other Internet access services to the public on the utility's delivery system.

The Commission is unsure what "utility delivery system" encompasses. It raises several questions, such as does this include poles? If referring to a transmission and distribution utility, does it mean only the electric space on the pole or does it include the communications space? In the context in which this is used in the Amendment it seems to indicate that broadband or other Internet access systems could only be provided on the utility delivery system, which in the case of a consumer-

owned water utility is the pipes delivering water to customers, which is likely not what the Amendment is suggesting. If moving forward with this Amendment, the Commission would request that “utility delivery system” is more clearly defined or existing terminology is used in order to provide clarity as to how these entities can provide broadband or Internet access systems, if this language is even necessary to include.

2. The Amendment is lacking clarity regarding what the rules the Commission is directed to adopt are meant to regulate.

The Amendment directs the Commission to adopt routine technical rules governing the provision of service that may be provided on the broadband or other Internet access systems. It appears from the wording that the Amendment is directing the Commission to regulate the broadband or Internet access systems service. The Commission notes that we do not regulate broadband and depending on what is intended by the Amendment may be preempted from doing so. If the Amendment is proposing rules in order for the Commission to protect existing utility customers from assuming risks associated with the utility providing broadband service or to ensure that utility rates do not increase because the utility chooses to provide broadband service, then this rulemaking directive is unnecessary. The Commission has the authority under existing laws and rules to ensure the protection of utility customers from these risks. For example, there are several water districts that are both a water and sewer district, as well as water utilities that are departments of towns. The Commission has oversight of water utilities but does not regulate sewer or other operations. In these cases, the entity will have to continue to maintain accounting that will separate revenues and costs for all operations.

3. The Commission is not aware of a particular issue that this Amendment is trying to address.

Currently, there is nothing in Title 35-A or Commission rule that would prohibit a consumer-owned transmission and distribution utility, a consumer-owned water utility or a regional municipal utility district from providing broadband service. We understand that many of these utilities are formed by charter and the charter specifies the purposes for which the utility is formed; therefore, a charter may need to be amended to allow for the provision of broadband or Internet service. If the intent of this Amendment is to provide a blanket allowance for these utilities to provide these services, without amending a charter, we are unsure if this in itself would alleviate the need to amend the charter. There may be instances in which the charter needs to specify the authority the utility has.

We have no comments on the other portions of the amendment related to the Municipal Gigabit Broadband Network Access Fund.

I would be happy to answer any questions or provide additional information for the work session.

Sincerely,



Deirdre Schneider
Legislative Liaison
Maine Public Utilities Commission

cc: Lindsay Laxon, Legislative Analyst