

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

H.P. 1060 - L.D. 1479

An Act To Clarify Telecommunications Regulation Reform

Be it enacted by the People of the State of Maine as follows:

Sec. 1. **35-A MRSA §116, sub-§1, ¶B,** as amended by PL 2011, c. 623, Pt. B, §1, is repealed and the following enacted in its place:

B. For the purposes of this section, "intrastate gross operating revenues" means:

- (1) In the case of all utilities except telephone utilities, revenues derived from filed rates except revenues derived from sales for resale;
- (2) In the case of a telephone utility, all intrastate revenues, except revenues derived from sales for resale, whether or not the rates from which those revenues are derived are required to be filed pursuant to this Title; and
- (3) In the case of a qualified telecommunications provider, all intrastate revenues except revenues derived from sales for resale.

Sec. 2. **35-A MRSA §7104, sub-§3,** as amended by PL 2011, c. 623, Pt. B, §14, is further amended to read:

3. Authority. The commission shall adopt rules to implement this section and may require voice network service providers ~~and providers of radio paging service~~ to contribute to a state universal service fund to support programs consistent with the goals of applicable provisions of this Title and the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56. Prior to requiring that voice network service providers ~~and providers of radio paging service~~ contribute to a state universal service fund, the commission shall assess the telecommunications needs of the State's consumers and establish the level of support required to meet those needs. If the commission establishes a state universal service fund pursuant to this section, the commission shall contract with an appropriate independent fiscal agent that is not a state entity to serve as administrator of the state universal service fund. Funds contributed to a state universal service fund are not state funds. Rules and any state universal service fund requirements established by the commission pursuant to this section must:

- A. Be reasonably designed to maximize federal assistance available to the State for universal service purposes;
- B. Meet the State's obligations under the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56;
- C. Be consistent with the goals of the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56;
- D. Ensure that any requirements regarding contributions to a state universal service fund be nondiscriminatory and competitively neutral; and
- G. Require, if a voice network service provider recovers its contributions under this section by means of a charge placed on a bill issued to a customer, explicit identification on that bill of any charge imposed under this section.

For purposes of this section, "voice network service provider" means a voice service provider that offers its subscribers the means to initiate or receive voice communications using the public switched telephone network. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Universal service fund limitation. Unless expressly authorized by law after the effective date of this Act, the Public Utilities Commission may not, sooner than 90 days following the adjournment of the First Regular Session of the 127th Legislature, collect funds for the purpose of disbursing funds from a state universal service fund under the Maine Revised Statutes, Title 35-A, section 7104, subsection 3 to any company that operates more than 50,000 access lines in the State. The joint standing committee of the Legislature having jurisdiction over energy and utilities matters may report out a bill to the First Regular Session of the 127th Legislature to provide that authorization.

Sec. 4. Report. The Public Utilities Commission shall submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters by January 7, 2015. In the report, the commission shall address options for decreasing the cost of ensuring that there are adequate and affordable basic telephone service options throughout the State. As used in this section, "provider of last resort service" has the same meaning as set out in the Maine Revised Statutes, Title 35-A, section 7201, subsection 7, and "state universal service fund" means the fund under Title 35-A, section 7104, subsection 3. The commission shall consider at least the following questions.

1. What financial assistance is needed, if any, from the state universal service fund for the largest incumbent local exchange carrier in the State to continue to provide basic telephone service in its current service area?
2. What type of basic telephone service could the largest incumbent local exchange carrier in the State provide with limited or no financial assistance from the state universal service fund?
3. In what geographic areas is it not economical for the largest incumbent local exchange carrier to provide basic telephone service? Of those areas, which ones have no alternatives for basic service at comparable rates? In those areas that have no alternatives,

what amount of financial assistance would the local incumbent exchange carrier need to provide basic telephone service?

4. How might the characteristics of provider of last resort service be amended to allow for more competition in the types of service providers that are able to provide provider of last resort service? What are the implications of changing these characteristics with regard to reliability, safety, cost and ease of use of provider of last resort service and the availability and quality of broadband service throughout the State? What are the implications of limiting provider of last resort service to reliable access to emergency services?

5. If the obligation of providing provider of last resort service was not assigned to the incumbent local exchange carrier, how might the commission assign the obligation? What are the obstacles, if any, to the commission's reassigning the provider of last resort obligation to a service provider other than a local incumbent exchange carrier? Is there any action needed by the Legislature?

6. What are the implications of limiting financial assistance for provider of last resort service to areas of the State that have limited competition or availability of basic service providers?

7. What is the broadband penetration of each incumbent local exchange carrier that does and each incumbent local exchange carrier that does not receive state universal service funds? At what tiers, as determined by the Federal Communications Commission, do incumbent local exchange carriers provide service throughout the State? Should providers of provider of last resort service that receive state universal service funds be required to increase the availability, quality or affordability of broadband in this State?

8. In what ways can the commission and the Legislature coordinate any changes to provider of last resort service or to state universal service fund support with ongoing policy developments at the federal level resulting from cases before the Federal Communications Commission, including the call for rural broadband experiments, the Federal Communications Commission's Connect America Fund and changes to intercarrier compensation?

9. Can the State ensure the provision of universal access to telecommunications service at just, reasonable and affordable rates consistent with the federal Telecommunications Act of 1996 without maintaining a regulated provider of last resort service? If so, what is a reasonable time frame for eliminating a regulated provider of last resort service?

The report may include any other information the commission considers relevant to the Legislature's establishing the appropriate scope and nature of provider of last resort service in this State. The joint standing committee of the Legislature having jurisdiction over energy and utilities matters may report out a bill related to the subject matter of the report to the First Regular Session of the 127th Legislature.