CHAPTER 23

UTILITY FACILITIES IN THE PUBLIC WAY

§2301. Construction, maintenance and operation of lines

Except as limited, every voice service provider, competitive local exchange carrier, telecommunications service provider as defined in section 711, subsection 7, paragraph C, unlit fiber provider as defined in section 711, subsection 7, paragraph E, information service provider as defined in section 711, subsection 7, paragraph A, dark fiber provider and corporation organized for the purpose of transmitting television signals by wire may construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may construct its lines and necessary erections and fixtures for them along, over, under and across any of the roads and streets and across or under any of the waters upon and along the route or routes subject to the conditions and under the restrictions provided in this chapter and chapter 25. [PL 2017, c. 199, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1995, c. 225, §8 (AMD). PL 2009, c. 612, §7 (AMD). PL 2011, c. 623, Pt. B, §6 (AMD). PL 2017, c. 199, §2 (AMD).

§2301-A. University of Maine System may install lines on existing facilities

The University of Maine System may install wires or lines on existing utility facilities located within or along a public right-of-way for the purpose of transmitting data and communications between and among University of Maine System facilities and partnering entities, wherever located, subject to the conditions and restrictions provided in this chapter and chapter 25. For purposes of this section, "lines" does not include utility poles and "partnering entities" means organizations, wherever located, authorized to use the university's regional optical network for education and research institutions or other university data and communications systems. [PL 2007, c. 268, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 268, §1 (NEW).

§2302. Pipelines for common carrier transportation

Every corporation organized under the general laws of the State and any public utility owning, controlling, operating or managing any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases may lay its pipelines and construct and maintain them in, along and under the roads and streets in any municipality, subject to the conditions and under the restrictions provided in this chapter and chapter 25. [PL 1997, c. 707, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1997, c. 707, §4 (AMD).

§2303. Water utilities may lay pipelines

Every water utility organized under the general or special laws of this State and authorized to do public utility business in this State may lay its pipe in and under the roads and streets in any municipality in which it is authorized to supply water or through which it is necessary or convenient to lay the pipe to supply water from its source of supply to enable it to provide its service, subject to the conditions and under the restrictions provided in this chapter and chapter 25. [PL 1987, c. 141, Pt. A, §6 (NEW).]

The installation and maintenance of a water utility plant by a utility in accordance with the location permit constitutes compliance by the utility with the requirements of section 2514. [PL 1987, c. 141, Pt. A, §6 (NEW).]

A water utility shall comply with sections 2503, 2505, 2506 and 2512. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2304. Gas utilities may lay pipelines

Every gas utility organized under section 2101 for the purposes named in that section may lay its pipes in, along and under the roads and streets in any municipality in which it is authorized to supply gas, subject to the conditions and restrictions provided in this chapter and chapter 25. [PL 1987, c. 141, Pt. A, §6 (NEW).]

This section does not apply to state and state-aid highways maintained by the State. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2305. Transmission and distribution utilities may construct lines

(REPEALED)

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1991, c. 834, §§1,2 (AMD). PL 1993, c. 18, §§1,2 (AMD). PL 1993, c. 91, §1 (AMD). PL 1995, c. 349, §§1,2 (AMD). PL 1999, c. 398, §A34 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2001, c. 110, §1 (RP).

§2305-A. Transmission and distribution utilities and telephone providers to conform to standards

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cable television company" has the same meaning as in Title 30-A, section 2001. [PL 1995, c. 349, §3 (NEW).]

B. "Most recent edition of the Standard" means the 1993 edition or any subsequent edition of the Standard adopted by the commission pursuant to this section. [PL 1995, c. 349, §3 (NEW).]

C. "Standard" means the National Electrical Safety Code (NESC)-ANSI-C2. [PL 1995, c. 349, §3 (NEW).]

[PL 1995, c. 349, §3 (NEW).]

2. Applicable national standard. Except as otherwise provided in this section or by rule of the commission adopted pursuant to this section, every transmission and distribution utility, entity authorized under section 2301 to construct lines and cable television company shall design, construct, operate and maintain its lines and equipment in conformance with the applicable provisions of the most recent edition of the Standard.

[PL 2011, c. 623, Pt. B, §7 (AMD).]

3. Review of standards by commission. Whenever a new or revised edition of the Standard is published, a transmission and distribution utility, entity authorized under section 2301 to construct lines or cable television company may request the commission to hold a hearing on whether the new or revised Standard should be adopted.

A. If a hearing is requested within 120 days of the publication of the new or revised Standard, the commission shall hold a hearing and shall either adopt the new or revised Standard or, pursuant to subsection 4, amend or reject the new or revised Standard. If a hearing is requested and held under this paragraph, the new or revised Standard does not go into effect in any form except as expressly provided by the commission in its order. [PL 1995, c. 349, §3 (NEW).]

B. If a hearing is not requested within 120 days of the publication of the new or revised Standard, the commission is deemed to have adopted the new or revised Standard effective on the 180th day after publication. Existing facilities that meet the requirements of the previously applicable Standard but which do not meet the requirements of the new or revised Standard may remain in noncompliance only if grandfathered under the new edition. [PL 1995, c. 349, §3 (NEW).]

[PL 2011, c. 623, Pt. B, §7 (AMD).]

4. Modifications, deletions and waivers to Standard. The commission may, at its discretion and after appropriate hearing, modify, delete or waive individual requirements of the Standard. The commission may make a modification or deletion or grant a waiver of a national standard of practice contained in the Standard only if it finds one of the following:

A. Other measures achieving equivalent levels of safety will be substituted for the modified, deleted or waived national standard; or [PL 1995, c. 349, §3 (NEW).]

B. The national standard is not applicable or is unduly burdensome for the level of safety achieved under local conditions. [PL 1995, c. 349, §3 (NEW).]

Modifications, deletions or waivers of individual requirements of the Standard remain in force until the next edition of the Standard is adopted by the commission pursuant to subsection 3 or the modification, deletion or waiver is repealed by the commission, whichever occurs first.

Pursuant to subsection 3, paragraph A, a transmission and distribution utility, entity authorized under section 2301 to construct lines or cable television company may petition the commission to continue approved modifications, deletions or waivers under a new or revised Standard. Unless the commission reaffirms a modification, deletion or waiver in its order adopting a new or revised Standard, a modification, deletion or waiver is deemed repealed on adoption of the new or revised Standard.

[PL 2011, c. 623, Pt. B, §7 (AMD).]

5. Additional safety measures. The commission may, at its discretion and after appropriate hearing, require safety measures in addition to those required by the Standard. An additional requirement remains in force for 10 years from its effective date unless the commission:

A. Repeals the requirement; or [PL 1995, c. 349, §3 (NEW).]

B. Reaffirms the requirement by order. Each reaffirmation must occur within 10 years of the original effective date of the requirement or within 10 years of the last affirmation. [PL 1995, c. 349, §3 (NEW).]

[PL 1995, c. 349, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 349, §3 (NEW). PL 1999, c. 398, §A35 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2011, c. 623, Pt. B, §7 (AMD).

§2305-B. Construction of transmission and distribution lines

1. Transmission and distribution utilities; microgrids. A transmission and distribution utility or a person that constructs, maintains or operates a new microgrid approved in accordance with section 3351, subsection 3 may construct and maintain its lines in, upon, along, over, across or under the roads and streets in any municipality in which it is authorized to supply electricity, subject to the conditions and restrictions provided in this chapter and chapter 25.

[PL 2021, c. 236, §3 (AMD).]

2. Persons other than transmission and distribution utilities or person that constructs, maintains or operates new microgrid. A person other than a transmission and distribution utility or person that constructs, maintains or operates a new microgrid approved in accordance with section 3351, subsection 3 may not construct or maintain electric lines, including poles or other related structures, in, upon, along, over, across or under a road, street or other public way unless:

A. The person satisfies the requirements of section 2503; [PL 2001, c. 110, §2 (NEW).]

B. The person or the person's contractor hired to construct the line provides to the applicable licensing authority a performance bond:

(1) In the amount of the value of the line, including poles or other related structures, to be located in the public way; and

(2) That is enforceable for one year from the date the line is energized; [PL 2001, c. 110, §2 (NEW).]

C. Prior to constructing the line, the person notifies the transmission and distribution utility in whose service territory the line is proposed to be built of the proposed location of the line; and [PL 2001, c. 110, §2 (NEW).]

D. If a public utility objects to the line on the basis that it may constitute a duplication of existing transmission or distribution facilities or may interfere with the adequate and safe delivery of electricity to others, the commission issues a finding that the line is not a duplication of existing transmission or distribution facilities and does not interfere with the adequate and safe delivery of electricity to others. A finding is not required under this paragraph unless a public utility has objected in writing to the applicable licensing authority. [PL 2001, c. 110, §2 (NEW).]

[PL 2021, c. 236, §4 (AMD).]

3. Recording. A public utility that enters into any written agreement with the owner of a facility with regard to that facility shall record that agreement in the registry of deeds in the county in which the facility is placed.

[PL 2001, c. 110, §2 (NEW).]

4. Maintenance. The owner of a line located in, upon, along, over, across or under a road, street or other public way is responsible for properly maintaining the line and complying with lawful directives of the applicable licensing authority. If the owner of a line fails to maintain a line properly or to comply with directives of the applicable licensing authority and the applicable licensing authority incurs any expense in maintaining the line or pays any damages as a result of the owner's failure to maintain the line properly or to comply with the directives of the licensing authority, the licensing authority may assess the owner of the line the amount of those actual costs. The assessment must be in writing and must specify the amount of the assessment, the basis for the assessment and that a lien will be created on the real estate of the owner of the line if the assessment is not paid within 90 days. If the owner of the line does not pay the assessment within 90 days, a lien is created on the real estate of the owner of the line situated in the municipality to secure the payment of actual costs incurred by the applicable licensing authority. This lien may be treated and enforced in the same manner as a tax lien under Title 36, chapter 105, subchapter IX, article 2. In addition to any other available remedies, a person aggrieved by a lien imposed or enforced by a licensing authority under this subsection may bring an action in Superior Court for a determination of the validity of the lien.

[PL 2001, c. 110, §2 (NEW).]

5. Energizing lines. A transmission and distribution utility may not deliver electricity over any line in, upon, along or under a road, street or other public way if the lines or related structures were constructed by a person other than a transmission and distribution utility unless the transmission and distribution utility is provided with certified copies of applicable permits required under section 2503. A transmission and distribution utility may not refuse to deliver electricity over a line if:

A. The owner of the line reimburses the transmission and distribution utility for the cost of connecting the line to the utility's system; and [PL 2001, c. 110, §2 (NEW).]

B. The line meets the transmission and distribution utility's standards, provided those standards are no different from the standards the utility applies to its own lines. [PL 2001, c. 110, §2 (NEW).]

[PL 2001, c. 110, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 110, §2 (NEW). PL 2021, c. 236, §§3, 4 (AMD).

§2306. No taking property without consent

A public utility organized under section 2101 and former section 2109 may not take, appropriate or use the location, pipes, lines, land or other property of any other person doing or authorized to do a similar business, without consent of the other person, except by Private and Special Act of the Legislature. [PL 1999, c. 398, Pt. A, §36 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1997, c. 707, §4 (AMD). PL 1999, c. 398, §A36 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§2306-A. Permit required for person laying pipes and wires

(REPEALED)

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1989, c. 502, §A125 (RP).

§2307. Public utilities and telephone providers may lay wires, pipes and cables under streets subject to municipal permit

Public utilities and entities authorized under section 2301 to construct lines may, in any municipality, place their pipes and appurtenances, wires and cables and all conduits and other structures for conducting and maintaining the pipes, wires and cables under the surface of those streets and highways in which the utilities or entities are authorized to obtain locations for their pipes and appurtenances, poles and wires, subject to the written permit of the licensing authority, as defined in section 2502 and subject to such rules as to location and construction as the municipal officers or the Department of Transportation may designate in their permit. A permit must be obtained under sections 2501 to 2508. Permits to open streets and highways for the purpose of relaying or repairing the pipes and appurtenances, wires, cables, conduits and other structures may be granted without notice. [PL 2011, c. 623, Pt. B, §8 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2011, c. 623, Pt. B, §8 (AMD).

§2308. Protection of utility facilities upon discontinuance of public ways

In proceedings for the discontinuance of public ways, public ways may be discontinued in whole or in part. The discontinuance of a town way must be pursuant to Title 23, section 3026-A. Unless an order discontinuing a public way specifically provides otherwise, the public easement provided for in Title 23, section 3026-A includes an easement for public utility facilities and for the permitted facilities of entities authorized under section 2301 to construct lines. A utility or entity may continue to maintain, repair and replace its installations within the limits of the way or may construct and maintain new facilities within the limits of the discontinued way, if it is used for travel by motor vehicles, in order to provide utility or telecommunications service, upon compliance with the provisions of sections 2503, 2505, 2506, 2507 and 2508. [PL 2015, c. 464, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2011, c. 623, Pt. B, §9 (AMD). PL 2015, c. 464, §9 (AMD).

§2309. Existing locations valid

The location of all pipes, hydrants, wires and cables and all conduits and other structures for the conducting and maintaining of those pipes, hydrants, wires and cables over, under the surface of and in those streets and highways in which those utilities authorized to obtain locations for their pipes, wires, hydrants and cables which have been located over, under the surface of and in the streets and highways prior to January 1, 1984, and which will be so located in accordance with this Title are declared legal and the same shall be legal structures in those streets and highways until their location has changed in any manner required or authorized by law. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2310. Trespass on a utility pole

1. Trespass. A person commits trespass on a utility pole if, without the prior consent of the owner of the pole, that person places any object or makes any attachment on any utility pole, whether or not it is within the limits of a public way.
[PL 2011, c. 623, Pt. B, §10 (AMD).]

2. Violation; forfeiture. Trespass on a utility pole is a civil violation for which a forfeiture of not less than $25 nor more than $100 shall be adjudged.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 2011, c. 623, Pt. B, §10 (AMD).

§2311. Lines along railroads; application to Public Utilities Commission when disagreement

A person maintaining or operating a telephone or electric line may construct a line across, upon or along any railroad with the written permit of the person owning or operating the railroad. If the person maintaining or operating a telephone or electric line and the person owning or operating the railroad can not agree as to the construction or manner of construction of lines upon, along or across the railroad or as to the continued operation of lines constructed upon, along or across the railroad, either party may apply to the commission, who, after notice to those interested, shall hear and determine the matter. The commission's decision is binding upon the parties. The commission may grant the person seeking to construct or operate a line a permit with appropriate terms and conditions to construct or operate the line along, upon or across the railroad or, in the case of a line across the railroad, authorize, subject to appropriate terms and conditions, the person to take by eminent domain an easement across the railroad. The taking of an easement authorized by the commission pursuant to this section must be in accordance with the procedures established in chapter 65. This section does not permit the commission to authorize the taking of an easement over lands owned by the State. The person seeking to construct lines on the railroad shall pay the expenses of the hearing, except that if the commission finds that parties owning or operating the railroad have unreasonably refused their consent, those parties shall pay the expenses. Without limiting the commission's jurisdiction under this section, if a railroad company and a telephone or transmission and distribution utility enter into an agreement involving a utility crossing of railroad property and that agreement or some other agreement provides that the commission shall resolve disputes arising under the original agreement, the commission may resolve those disputes. As used in this section, the term "railroad" includes, but is not limited to, a railroad whose abandonment has been approved pursuant to 49 United States Code, Chapter 109. [PL 2001, c. 608, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1991, c. 743, §1 (AMD). PL 2001, c. 608, §1 (AMD).

§2312. Facilities in municipally designated historic districts

1. Location of facilities in municipally designated historic district. A public utility or other facility owner that owns facilities, as defined in section 2502, subsection 3, along a state highway or state aid highway located in a district designated a historic district by a municipality by ordinance shall provide, upon written demand by the governing body of that municipality, services to buildings or structures located along the state highway or state aid highway either by connecting its facilities to the rear of those buildings or structures, if rear access is reasonably available from other poles, however owned and controlled, legally located in public streets or ways, or by placing those facilities under the surface of the state highway or state aid highway. Any relocation or placement cost is the responsibility of the municipality whose governing body issued the written demand, unless the public utility or other facility owner has specifically agreed in writing to bear a portion of the cost.
[PL 1999, c. 596, §1 (NEW).]

2. Cost estimate. A public utility or other facility owner that owns facilities, as defined in section 2502, subsection 3, shall inform, within 60 days of receiving a written demand from a municipality pursuant to subsection 1, the municipality's governing body of its preliminary estimate of costs of relocating facilities. The written demand must include the exact location within the public way of the proposed new placement or relocation, taking into consideration existing underground utilities. The municipality may rescind its demand for a relocation after reviewing the cost estimate.
[PL 1999, c. 596, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 596, §1 (NEW).

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