130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document **No. 933**

H.P. 689 House of Representatives, March 8, 2021

An Act To Facilitate the Expansion of Broadband to Unserved Areas of the State

(EMERGENCY)

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative BERRY of Bowdoinham.

Printed on recycled paper

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, many residents of rural Maine lack access to affordable, high-speed Internet service; and

Whereas, the global pandemic caused by the novel coronavirus disease, COVID-19, has revealed and exacerbated the inequalities of the digital divide in Maine;

Whereas, utility pole attachment rates and utility pole rental rates in unserved areas in Maine comprise between 25% and 40% of the cost of expanding fiber-optic lines to those areas; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §711, sub-§4, as amended by PL 2017, c. 199, §1, is further amended to read:

4. Rules. The commission shall adopt rules governing the resolution of pole attachment disputes and the rates, terms and conditions of joint use. The rules must promote competition, further the state broadband policy set forth in section 9202-A and ensure safe, nondiscriminatory access on just and reasonable terms. The rules must also include a process for ensuring that a new joint use entity seeking access to the poles, ducts, conduits or rights-of-way of another joint use entity meets the requirements of subsection 1, paragraph D. <u>The rules may include establishment of a mechanism or process by which joint use rates in unserved areas of the State are required to be reduced or capped in a manner designed to encourage broadband expansion in those unserved areas and joint use rates in areas of the State that are not unserved areas are required to be increased.</u> In establishing rates, the commission shall consider various formulas, including, but not limited to, the formula adopted by the Federal Communications Commission as codified in 47 Code of Federal Regulations, Part 1, Subpart J, as amended. Rules adopted or amended pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Public Utilities Commission; study. The Public Utilities Commission, in consultation with the ConnectMaine Authority, shall study methods of promoting broadband expansion in unserved areas of the State through a limited-period reduction in utility pole attachment rates for broadband providers that agree to deliver new high-speed Internet service in those unserved areas in conjunction with a limited-period increase in utility pole attachment rates in areas of the State that are not unserved areas. The study must involve, but is not limited to, a review of the so-called "One Buck Deal" financial incentive program implemented by the Georgia Public Service Commission. As used in this section, "unserved areas" means those areas defined by rule by the ConnectMaine Authority pursuant to the Maine Revised Statutes, Title 35-A, section 9204-A, subsection 1.

Sec. 3. Report. No later than January 1, 2022, the Public Utilities Commission shall submit a report to the Joint Standing Committee on Energy, Utilities and Technology describing the findings of the study under section 2 and any recommendations, including proposed legislation, resulting from that study. After reviewing the report, the joint standing committee may report out legislation relating to the report to the Second Regular Session of the 130th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill authorizes the Public Utilities Commission to adopt rules establishing a mechanism or process by which utility pole joint use rates in unserved areas of the State are required to be reduced or capped in a manner designed to encourage broadband expansion in those unserved areas and joint use rates in areas of the State that are not unserved areas are required to be increased.

The bill also requires the Public Utilities Commission, in consultation with the ConnectMaine Authority, to study methods of promoting broadband expansion in unserved areas of the State through a limited-period reduction in utility pole attachment rates for broadband providers that agree to deliver new high-speed Internet service in those unserved areas in conjunction with a limited-period increase in utility pole attachment rates in areas of the State that are not unserved areas. No later than January 1, 2022, the Public Utilities Commission is required to submit a report to the Joint Standing Committee on Energy, Utilities and Technology describing the findings of that study and any recommendations, including proposed legislation, resulting from that study. After reviewing the report, the joint standing committee may report out legislation relating to the report to the Second Regular Session of the 130th Legislature.