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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 676, L.D. 920, “An Act To Promote Oversight of and Competitive Parity among Video Service Providers”

Amend the amendment on page 1 by inserting after paragraph H the following:

'Amend the bill by striking out all of section 7 and inserting the following:

'Sec. 7. 30-A MRSA §3008, sub-§3, ¶C, as amended by PL 2007, c. 548, §1, is further amended to read:

C. Neither the ~~cable system operator~~ video service provider whose facilities are used to transmit a program produced by a person other than that ~~operator~~ provider, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of ~~any such cable system operator~~ that provider are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that ~~cable system operator~~ provider does not originate or produce the program.' '

Amend the amendment in in section 9 in paragraph G in the 3rd and 4th lines (page 2, lines 3 and 4 in amendment) by striking out the following: "public, educational and governmental transmission facility equipment used for the management" and inserting the following: 'facility support equipment used for the management or delivery to the video service provider'

Amend the amendment on page 3 by striking out all of the last indented paragraph (page 3, line 37 in amendment).

Amend the amendment by striking out all of sections 29 and 30 (page 3, lines 38 to 43 and page 4, lines 1 to 22 in amendment).

Amend the amendment on page 4 by striking out all of the 2nd occurrence of section 30 (page 4, lines 24 to 43 and page 5 lines 1 to 26 in amendment) and inserting the following:

'Sec. 30. 35-A MRSA §116, as amended by PL 2019, c. 226, §1 and c. 298, §2, is further amended to read:

§116. Funding of the commission

HOUSE AMENDMENT

1 **1. Entities subject to assessments.** Every transmission and distribution, gas,
2 telephone and water utility, video service provider and ferry subject to regulation by the
3 commission and every qualified telecommunications provider is subject to an assessment
4 on its intrastate gross operating revenues to produce sufficient revenue for expenditures
5 allocated by the Legislature for the Public Utilities Commission Regulatory Fund
6 established pursuant to this section. The budget for the Public Utilities Commission
7 Regulatory Fund is subject to legislative review and approval in accordance with
8 subsection 2. The portion of the total assessment applicable to each category of public
9 utility, video service provider or qualified telecommunications provider is based on an
10 accounting by the commission of the portion of the commission's resources devoted to
11 matters related to each category. The commission shall develop a reasonable and
12 practicable method of accounting for resources devoted by the commission to matters
13 related to each category of public utility, video service provider or qualified
14 telecommunications provider. Assessments on each public utility or qualified
15 telecommunications provider within each category must be based on the utility's, video
16 service provider's or qualified telecommunications provider's gross intrastate operating
17 revenues. The commission shall determine the assessments annually prior to May 1st and
18 assess each utility, video service provider or qualified telecommunications provider for its
19 pro rata share for expenditure during the fiscal year beginning July 1st. Each utility, video
20 service provider or qualified telecommunications provider shall pay the assessment
21 charged to the utility, video service provider or qualified telecommunications provider on
22 or before July 1st of each year. Any increase in the assessment that becomes effective
23 subsequent to May 1st may be billed on the effective date of the act authorizing the
24 increase.

25 A. The assessments charged to utilities, video service providers and qualified
26 telecommunications providers under this section are just and reasonable operating costs
27 for rate-making purposes.

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

29 (1) In the case of all utilities except telephone utilities, revenues derived from filed
30 rates except revenues derived from sales for resale;

31 (2) In the case of a telephone utility, all intrastate revenues, except revenues
32 derived from sales for resale, whether or not the rates from which those revenues
33 are derived are required to be filed pursuant to this Title; and

34 (3) In the case of a video service provider or a qualified telecommunications
35 provider, all intrastate revenues except revenues derived from sales for resale.

36 C. Gas utilities subject to the jurisdiction of the commission solely with respect to
37 safety are not subject to any assessment.

38 D. The commission may correct any errors in the assessments by means of a credit or
39 debit to the following year's assessment rather than reassessing all utilities, video
40 service providers or qualified telecommunications providers in the current year.

41 E. The commission may exempt utilities, video service providers or qualified
42 telecommunications providers with annual intrastate gross operating revenues under
43 \$50,000 from assessments under this section.

1 For purposes of this section, "video service provider" has the same meaning as in Title
2 30-A, section 3008, subsection 1-A, paragraph H and "qualified telecommunications
3 provider" means a provider of interconnected voice over Internet protocol service that paid
4 any assessment under this subsection, whether voluntarily, by agreement with the
5 commission or otherwise, prior to March 1, 2012.

6 **2. Committee recommendations; legislative approval of budget.** The commission
7 shall submit its budget recommendations, using a zero-based budgeting process or other
8 process or method directed by the State Budget Officer, as part of the unified current
9 services budget legislation in accordance with Title 5, sections 1663 to 1666. The
10 commission shall make a presentation of its budget recommendations contained in any
11 current services budget legislation and any supplemental budget legislation to the joint
12 standing committee of the Legislature having jurisdiction over public utilities matters. The
13 joint standing committee of the Legislature having jurisdiction over public utilities matters
14 shall review the commission's recommendations and make recommendations to the joint
15 standing committee of the Legislature having jurisdiction over appropriations and financial
16 affairs regarding the budget of the commission, including but not limited to all expenditures
17 from the fund established pursuant to this section. The commission shall make an annual
18 report in accordance with section 120 of its planned expenditures for the year and on its
19 use of funds in the previous year. In addition to the assessments authorized under this
20 section, the commission may also receive other funds as appropriated or allocated by the
21 Legislature.

22 **3. Deposit of funds.** All revenues derived from assessments levied against utilities,
23 video service providers or qualified telecommunications providers described in this section
24 must be deposited with the Treasurer of State in a separate account to be known as the
25 Public Utilities Commission Regulatory Fund.

26 **4. Use of funds.** The Public Utilities Commission may use the revenues provided in
27 accordance with this section to defray the costs incurred by the commission pursuant to this
28 Title, including administrative expenses, general regulatory expenses, consulting fees and
29 all other reasonable costs incurred to administer this Title.

30 **5. Unexpended funds.** Any amount of the funds that is not expended at the end of a
31 fiscal year does not lapse, but is carried forward to be expended for the purposes specified
32 in this section in succeeding fiscal years.

33 **8. Public Advocate assessment.** Every utility or qualified telecommunications
34 provider subject to assessment under this section is subject to an additional annual
35 assessment on its intrastate gross operating revenues to produce sufficient revenue for
36 expenditures allocated by the Legislature for operating the Office of the Public Advocate.
37 The portion of this assessment applicable to each category of public utility or qualified
38 telecommunications provider is based on an accounting by the Public Advocate of
39 resources devoted to matters related to each category. The Public Advocate shall develop
40 a reasonable and practicable method of accounting for resources devoted by the Public
41 Advocate to matters related to each category of public utility or qualified
42 telecommunications provider. Assessments on each public utility or qualified
43 telecommunications provider within each category must be based on the utility's or
44 qualified telecommunications provider's gross intrastate operating revenues. The revenues
45 produced from this assessment are transferred to the Public Advocate Regulatory Fund and
46 may only be used to fulfill the duties specified in chapter 17. The assessments charged to

1 utilities and qualified telecommunications providers under this subsection are considered
2 just and reasonable operating costs for rate-making purposes. The Public Advocate shall
3 develop a method of accounting for staff time within the Office of the Public Advocate.
4 All professional and support staff shall account for their time in such a way as to identify
5 the percentage of time devoted to public utility and qualified telecommunications provider
6 regulation and the percentage of time devoted to other duties that may be required by law.

7 A. The Public Advocate shall submit its budget recommendations, using a zero-based
8 budgeting process or other process or method directed by the State Budget Officer, as
9 part of the unified current services budget legislation in accordance with Title 5,
10 sections 1663 to 1666. The assessments and expenditures provided in this section are
11 subject to legislative approval. The Public Advocate shall make an annual report of its
12 planned expenditures for the year and on its use of funds in the previous year. The
13 Public Advocate may also receive other funds as appropriated by the Legislature.

14 B. The Public Advocate may use the revenues provided in accordance with this section
15 to fund the Public Advocate and 10 employees and to defray the costs incurred by the
16 Public Advocate pursuant to this Title, including administrative expenses, general
17 expenses, consulting fees and all other reasonable costs incurred to administer this
18 Title.

19 C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be
20 carried forward to be expended for the purposes specified in this section in succeeding
21 fiscal years.

22 **9. Public Advocate special assessment.** Each investor-owned transmission and
23 distribution utility subject to assessment under this section is subject to an additional annual
24 assessment on its intrastate gross operating revenues to produce sufficient revenue for
25 expenditures of the Office of the Public Advocate for contracted services and
26 administrative costs associated with the nonwires alternative coordinator pursuant to
27 section 1701, subsection 2-A. Revenue produced from the assessments must be deposited
28 in the Public Advocate Regulatory Fund and used only for purposes specified in this
29 subsection.'

30 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
31 section number to read consecutively.

32 SUMMARY

33 This amendment makes the following changes to the committee amendment.

34 1. It removes the changes to the bill made by the committee amendment that define
35 "video service provider" as a public utility under the Maine Revised Statutes, Title 35-A
36 but retains, with certain technical clarifications, the changes authorizing the Public Utilities
37 Commission to offset its oversight and enforcement costs related to video service providers
38 through an assessment on the intrastate gross operating revenues of video service providers
39 in the same manner that the commission requires the payment of such assessments by
40 public utilities.

41 2. It clarifies the responsibility of a video service provider with respect to the costs
42 associated with public, educational and governmental facility equipment.

1 3. It makes a technical correction to a provision in the bill relating to liability of certain
2 entities with respect to obscene or defamatory statements or actions or invasion of privacy
3 occurring during any program.

4 **SPONSORED BY:** _____

5 **(Representative KESSLER, C.)**

6 **TOWN: South Portland**