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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 by striking out all of instructional paragraphs 1, 2 and 3 (page 1, lines 11 to 18 in amendment).

Amend the amendment by inserting after the 4th instructional paragraph 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 section 9 in paragraph G (page 2, line 4 in amendment) by striking out the following: "transmission"

Amend the amendment in section 9 in paragraph G (page 2, line 4 in amendment) by inserting after the following: "management" the following: 'or video delivery to the video service provider'

Amend the amendment on page 3 by striking out all of lines 35 to 43, page 4 lines 1 to 43 and page 5 lines 1 to 24 in amendment) and inserting the following:

'Amend the bill by inserting after section 30 the following:

Sec. 29. 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

1. Entities subject to assessments. Every transmission and distribution, gas, telephone and water utility, video service provider and ferry subject to regulation by the

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

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

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

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

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

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

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

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

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

42 For purposes of this section, "video service provider" has the same meaning as in Title 30-
43 A, section 3008, subsection 1-A, paragraph H and "qualified telecommunications provider"
44 means a provider of interconnected voice over Internet protocol service that paid any

1 assessment under this subsection, whether voluntarily, by agreement with the commission
2 or otherwise, prior to March 1, 2012.

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

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

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

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

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

1 Advocate shall develop a method of accounting for staff time within the Office of the Public
2 Advocate. All professional and support staff shall account for their time in such a way as
3 to identify the percentage of time devoted to public utility, video service provider and
4 qualified telecommunications provider regulation and the percentage of time devoted to
5 other duties that may be required by law.

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

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

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

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

29 Amend the bill by striking out all of section 30.'

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

41 2. It removes the changes to the bill that amended the definition of "public, educational
42 and governmental transmission facility equipment," reverting to the definition of that
43 phrase provided in the bill and it clarifies the responsibility of a video service provider with

1 respect to the costs associated with public, educational and governmental facility
2 equipment.

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

6 **SPONSORED BY:** _____

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

8 **TOWN: South Portland**