



Joint Standing Committee on Energy, Utilities and Technology

Testimony of Charter Communications

**LD1894 An Act To Support Municipal Broadband Infrastructure Through Incentives and Competition**  
2/3/22

Chairman Lawrence, Chairman Berry, and members of the Energy, Utilities and Technology Committee, my name is Kate Foye, representing Charter Communications.

Charter believes that every Maine resident should have reliable access to broadband. This is why we must testify in opposition to LD 1894. In light of the influx of federal funds that can be used for broadband, Maine should not squander the once-in-a-lifetime opportunity to connect every unserved household and anchor institution in Maine to broadband service. As drafted, LD 1894 makes this goal harder, not easier, to achieve.

Charter has been an active partner with Maine in providing broadband services to 294 communities in the state serving 426,000 customers. As a result of significant network investments by Charter, we offer residential customers Gigabit services, with download speeds of 1000 Megabits per second (Mbps) and upload speeds of 35Mbps. Charter is proud to employ approximately 680 workers in Maine and we are committed to permanently raising our minimum wage for all employees to \$20 per hour in 2022. In 2021 we hired 275 employees of which 180 were new positions in our Portland call center.

Charter is committed to expanding broadband services in Maine. Last year, the company invested more than \$55 million in technology and infrastructure in the state and expanded the reach of its network to an additional 7,000 homes and businesses. This past year we announced an expansion, at no cost to the communities, to serve three new towns of Newburgh, Swanville and Etna with services being activated this month. Charter continues to be committed to providing high quality broadband service to communities all across Maine. In July of 2021, US News and World Report rated Charter Communications the Best Rural Internet Provider. Charter also offers Spectrum Internet Assist, a low cost broadband service for qualified low income families and seniors to help bridge the digital divide.

Charter appreciates all of the efforts in Maine to expand broadband, including the efforts of Senator Vitelli and the ongoing work of the Connect Maine Authority. We continue to value the relationships that Charter has in the Maine Legislature and administration.

Charter supports policies designed to foster broadband expansion to unserved areas of Maine. Federal and state dollars should be directed to provide broadband to Mainers who do not currently have access to broadband, and government policy should focus on unserved areas of the state. Maine has an opportunity to solve the expensive and difficult problem of connecting its most difficult to reach areas to broadband, and it would be irresponsible to waste federal and state dollars on areas that already have

access when there are areas that do not. The ConnectMaine Authority has been a strong advocate of deploying funds to unserved areas of Maine; LD 1894 undermines this important policy goal.

In addition, the State's broadband policies must ensure that competition is fair and equitable and that customers of utility services are not subsidizing entry of those utilities into the broadband marketplace. When entities like regulated utilities seek to enter new markets (like broadband), then, respectfully, legislators need to guard against the potential for them to leverage built-in advantages in an effort to gain an immediate and anticompetitive foothold in the new market.

Utilities possess numerous advantages, including a captive rate-base and ownership of key infrastructure inputs like utility poles that, if left unpoliced, could become a means of artificially tilting the broadband market in their own favor to the detriment of consumers. The legislation as currently drafted would allow water, electric, and other utilities to enter the broadband market but does not acknowledge the existence of nor seek to address the incentive for utilities to leverage these kinds of advantages in a manner that harms the state of Maine. The state can guard against these negative outcomes by limiting their broadband authority, or at least any government broadband infrastructure grants, to unserved area and by imposing several guardrails to protect utility ratepayers.

A utility that enters the broadband business puts the electric system and ratepayers at risk. A utility can hold its captive customers hostage by requiring that electric or water customers subscribe to its broadband service. And if the utility's broadband business is failing, the utility must cover that failure through higher rates and taking on debt. It is the customer that pays for that failure over the long-term by paying those higher rates and the interest payments on those debts. There is no guarantee that a duplicative network will attract enough customers to generate the revenue needed to be successful and meet debt obligations, thereby leaving utility ratepayers and taxpayers with the bill.

Second, a utility with a captive market for electric, water, or other utility service could drive private broadband competitors out of the market by subsidizing broadband build-out and their customers' broadband prices with their utility service rates. Monopoly utilities are driven by a completely different set of incentives than firms participating in competitive markets. Irrespective of the type of rate regulation a utility service operates under, they are effectively guaranteed a rate from their captive rate-base of customers that enables them to recover their costs, whether or not those costs are associated with the delivery of the utility service. This gives them an incentive to push as many costs as possible – warehouse, vehicle, property, administrative, overhead, etc. – onto their utility rate-base without a fear that customers will leave them for another provider. Without protections, this could easily lead to higher rates for electric, water, and other utilities. Increased utility service rates for customers so that the utility can deploy fiber, contributes to the kind of cross-subsidization that state legislatures have long sought to deter and prevent.

The most important guardrail that the legislature can implement to mitigate these anti-consumer incentives and mitigate the potential for abuse is to limit new broadband authority and any government broadband infrastructure funding – through this bill and the Municipal Gigabit Fund more broadly – to unserved areas only. This would help bring broadband to Maine residents that don't have yet have access to broadband service and the lack of an existing, non-utility, broadband provider means there are fewer incentives to compete unfairly by over-allocating to the utility rate-base. The goal of state and federal broadband infrastructure funding is to close the digital divide—not to subsidize areas where broadband connectivity is robust and routinely upgraded to keep ahead of evolving consumer usage and demand.

There is an enormous difference between having no broadband and having broadband. If a community has robust broadband service from a private provider, the government shouldn't step in to subsidize higher speeds while there are communities that lack access to broadband.

In addition, Charter urges the legislature to add other important guardrails for any utility that would own a broadband network. These are guardrails other states have imposed to protect against the anti-consumer incentives outlined above. Among other guardrails, these should include structural and legal separation of a utility and its broadband affiliate, with broadband service only permitted through the affiliate. Profits from the utility should be prohibited from being used to subsidize the broadband affiliate. Utilities should also be prohibited from requiring that consumers subscribe to their affiliate's broadband network as a condition of receiving other utility services such as electricity or water. And to prevent increased costs of private broadband deployment, there should be guardrails to prevent a pole owner with a broadband business from denying competitors access to poles or unfairly increasing the costs to attach to poles.

Thank you for your time today, I would be happy to answer any questions.