

LD 406

TESTIMONY ON BEHALF OF CHARTER COMMUNICATIONS IN SUPPORT OF S.P. 133—3/7/2017

My name is Tom Federle. I am from the firm of Federle Law and am testifying in support of LD 406 on behalf of Charter Communications, which recently acquired Time Warner Cable. Charter Communications is the State's largest cable television/broadband provider, serving 365,465 residential and business customers. The company continues to invest heavily in deploying communications infrastructure in the State of Maine, expanding availability to more underserved areas and bringing new products and services to market for our customers. Shortly, the company expects to introduce the Charter brand – Spectrum – to Maine, which will also come with several exciting announcements about new product offerings.

LD 406 clarifies the scope of the Maine Public Utility Commission's authority to establish rules governing all aspects of the joint-use of poles, including terms and conditions necessary for a timely deployment of broadband service in Maine.

In order to provide their services, communications providers like Charter must install a significant portion of their facilities on the existing pole infrastructure owned by the state's electric and telephone utilities, some of which compete directly with Charter. Effective pole attachment regulation, including a consistent, transparent and cost-based rental rate formula, is therefore critical to cable and broadband deployment. Without it, deploying communications networks on poles can be significantly delayed, exceed reasonable costs, and lead to anti-competitive behavior that discourages new deployment. Indeed, when the Federal Communications Commission adopted its access timeframes and lowered pole attachment rates in 2011, it recognized that "to the extent access to poles is more burdensome or expensive than necessary, it creates a significant obstacle to making [communications] service[s] available and affordable."

To that end, LD 406 is an important step towards ensuring that cable and broadband deployment in the State of Maine proceeds in a timely, cost-effective and predictable manner.

This legislation ensures that the Maine PUC has the authority to adopt rules applicable to all aspects of joint pole use, including terms and conditions that will promote efficient and timely deployment of broadband infrastructure. It will also clarify the rights and responsibilities of the parties and provide guidance for negotiating pole attachment agreements and rates, without PUC involvement.

While Charter has a good working relationship with most of the pole-owning utilities in the State, its construction is often delayed due to lack of specific timeframes for access, including for the performance of make-ready work. Make-ready work is the short-hand term for work that often needs to be performed to ensure that attachments can be installed in accordance with safety codes, like the National Electric Safety Code. Make-ready work includes rearranging existing electric and/or communications facilities or replacing poles with larger poles, in order to provide room for a new attachment. In states that have pole attachment rules, including the 30 states regulated by the FCC and Maine's neighbor, New Hampshire, pole owners are required to perform make-ready within a certain timeframe, typically no more than 60 days. If the pole

owners fail to respond within those timeframes, the attacher may hire a contractor approved by the utility to perform the work.

In Charter's experience, make-ready work in Maine usually takes 180 days or much more. Charter cannot serve its customers in a timely manner and cannot compete with pole owner competitors under such circumstances. Much of this delay comes in circumstances where Charter is trying to deploy new facilities to reach unserved areas. As the company tries to expand its reach and provide service to more places – like rural communities where broadband and cable are not available – such delay frustrates buildout and creates obstacles and disincentives to infrastructure investment.

In addition, the lack of a consistent, transparent and cost-based pole attachment rental formula makes it very difficult to predict costs or understand how the rates are determined from pole owner to pole owner.

For these and many other reasons, Charter supports LD 406 so that the PUC has the authority it needs to ensure effective and long over-due pole attachment regulation in the State of Maine.