



Senator Woodsome, Representative Berry members of the Energy, Utilities and Technology Committee my name is Sarah Davis and I am the Senior Director of Government Affairs with FairPoint Communications. I am here today to testify in OPPOSITION to LD 406.

LD 406 makes two substantive changes to the current joint use of utilities equipment statute: 1) it expands the ability of the PUC to order joint use of utility property; and 2) it takes away the right of utilities to negotiate contracts for the use of their property. These are sweeping changes the ramifications of which should be considered carefully by this Committee. The Committee should ask itself why we need this legislation.

Attachers frequently cite the cost, as the main issue with pole attachments. However, from the pole owner's perspective, safely maintaining poles in a state as large as Maine, is a costly endeavor. Here are the numbers:

- In 2015, FairPoint incurred over \$40M in pole expense in Maine.
- The total pole attachment fees billed in 2016 totaled just over \$2.3M;
- Of that \$2.3M, nearly 85% came from cable companies, who are attached to a majority of the poles throughout the state;
- The remaining 83 companies combined pay only about \$300,000;
- Conversely, in Maine, FairPoint paid over \$5M annually in pole attachment rent ;

As the numbers above demonstrate, maintaining poles is expensive and it is made no less expensive simply because attachers desire to pay less.

Attachers also cite the time it takes to attach to poles as an issue with pole attachments. Again, safely administering pole attachments is administratively burdensome and time consuming.

Each and every day, FairPoint is responsible (in conjunction with its power company partners) for ensuring the safety of attachments on over 300,000 poles in the state. FairPoint must coordinate with multiple parties to ensure that attachments are moved, transferred or placed in the correct and safe location. It must respond to storms, car accidents or other emergencies that affect its pole plant. Frequently, when an emergency occurs, the power company and FairPoint are the only companies that respond.

Here are some examples to help you understand the magnitude of the work FairPoint administers:

FairPoint currently administers hundreds of thousands of attachments on over 300,000 poles throughout the state.

Through this process, FairPoint contracts with over 87 different entities in the State of Maine through 230 different contracts, (this is exclusive of the substantial number of contracts we have with municipalities for decorative attachments, which we do not charge for).

FairPoint has a group dedicated to managing requests for pole attachments.

FairPoint contracts with telecommunications providers, internet service providers, dark fiber providers, municipalities, private businesses and schools.

So what problem is the PUC trying to solve?

From FairPoint's perspective that is a little unclear. Under the current process FairPoint negotiates contracts for attachment with any party seeking access to its poles. If a party is aggrieved by the terms and conditions of that contract or by specific decisions in the licensing process, that company can complain to the Maine Public Utilities Commission. The PUC has a "rapid response" process whereby they hear pole attachment complaints on an expedited time frame (within 48 hours).

The current process at the PUC is consistent with federal pole attachment laws and rules in that parties seek redress at the Commission only after they fail to agree on terms and conditions of attachment. The PUC's process even goes a step further because it allows for an expedited time frame to hear those complaints.

So there must be numerous complaints right?

Wrong. During its tenure, FairPoint has had to make room on its poles for thousands of attachments including the massive Maine Fiber Company project. Through that project, FairPoint had to accommodate over 20,000 thousand attachments (exclusive of conduit). It did so in a fast and efficient manner. FairPoint even received a letter from Maine Fiber Company commending it for the pace at which it achieved the results. Despite the large number of attachments FairPoint has had to accommodate, FairPoint has experienced fewer than 5 complaints. None of those complaints have been resolved with a decision adverse to FairPoint. Additionally, no entity that has requested attachment has been denied.

So why is this legislation necessary?

The truth is, we do not know. There is no condition that exists that requires a regulatory agency to take the extraordinary step of prescribing to the utilities the terms and conditions upon which their property is used. Under current law, attachers who are aggrieved by the terms offered by the utility have a process to seek redress at the Commission. This process allows for disputes to be resolved in a rapid manner. The current law protects attachers and preserves the rights of utilities to manage their property in a safe and effective manner. For that reason, LD 406 should be rejected. The PUC should not be allowed to interject its judgement over that of the utility and prescribe how those utilities should manage their own property.