

**Testimony of Lincolnville Telephone Company  
Presented by Joseph Donahue, Preti Flaherty, Regulatory Counsel  
Before  
The Joint Standing Committee on Energy, Utilities and Technology  
In support of  
*L.D. 406, An Act To Amend the Law Regarding  
Joint Use of Certain Utility and Telecommunications Infrastructure***

March 7, 2017

Good afternoon Senator Woodsome, Representative Berry and Members of the Joint Standing Committee of Energy, Utilities and Technology. I am Joseph Donahue, an attorney with Preti Flaherty. I serve as regulatory counsel for Lincolnville Telephone Company.

Also here today on behalf of Lincolnville Telephone Company are Mr. Rick Manning, Vice President, and Mr. Alan Hinsey, Director of Marketing and Sales. They are here to help answer any questions you may have.

Lincolnville Telephone Company is speaking in support of L.D. 406, *An Act To Amend the Law Regarding Joint Use of Certain Utility and Telecommunications Infrastructure*. We do have some concerns with the bill in its present form, which we will address. We are also offering a proposed amendment for the Committee's consideration, which addresses these concerns.

Lincolnville Telephone Company operates two traditional ILEC telephone companies, Lincolnville Networks and Tidewater Telecom, which provide provider of last resort (POLR) service in the Lincolnville and Damariscotta areas. Lincolnville Networks and Tidewater Telecom own and manage utility poles in their service area. Lincolnville Telephone Company also operates a competitive telephone company named

Lincolnville Communications. Lincolnville Communications is certified by the PUC as a competitive local exchange carrier (also known as a CLEC) and is authorized by the PUC to provide competitive telephone services in the State. Lincolnville Communications provides competitive telecommunications services in several areas in the Midcoast areas of the State.

Lincolnville Communications is currently engaged in a major buildout of fiber optic cable in order to bring broadband services to customers, communities and municipalities throughout midcoastal Maine. Attached to our written testimony is a Press Release which provides additional information regarding this undertaking. In order to bring broadband services to these areas it is necessary for Lincolnville Communications to attach its fiber optic facilities to poles owned by other companies. Lincolnville has found this process to be disappointingly slow and costly. It is burdened by requirements and constraints that are unnecessary and unreasonable, and contribute to costs and delay.

As some parties may discuss today, there are methods for attaching to poles which save time and expense, but are not generally made available to attachers in the State of Maine by the owners of poles. Lincolnville has been experiencing significant delays and costs, which would not have occurred if these methodologies and arrangements were made available.

L.D. 406 touches on issues of significant concern to Lincolnville. Of greatest concern is the issue of costs and delays associated with deploying fiber optic facilities to bring broadband to customers who do not have the speeds and services they desire. This is a problem that is currently ongoing for Lincolnville in the field today. Lincolnville

had hoped that these issues would have been addressed in the rulemaking proceeding which was initiated by the PUC in 2015 and terminated at the end of 2016. Lincolnville believes that those issues should be addressed by the PUC as soon as possible, without any further delay. Lincolnville believes that the only impediment to those issues having been addressed by the Commission by now is the lack of clarity as to the Commission's authority to address those issues by rule, rather than on a case-by-case basis. Lincolnville believes that the Legislature should act in an expedited fashion to assure the PUC that it has the authority to address these issues by rule, and with expectation that the PUC complete as soon as possible the work on those issues that it had started.

Lincolnville does not believe that the Legislature should require the PUC to adopt rules regarding the entire landscape with regard to all issues regarding joint use. This may be a very detailed and complicated area. Rather, the Legislature should require the Commission to focus immediately on the issues of the time and expense for make-ready work and the availability of alternative and creative methods for attaching to poles.

Lincolnville, as an owner of some poles itself, and as an attacher to poles owned by others, is concerned about the proper management and administration of the poles and pole attachments in order to assure the structural and fiscal integrity of this vital infrastructure, to assure that the poles are not overburdened, to assure that attachments are conducted in a reasonable and organized manner, and also to assure the protection and safety of persons working on the poles.

L.D. 406 as currently drafted adds new types of entities to the list of who may obtain joint use under Section 711. Lincolnville expects that there are other entities which probably should be allowed to attach to poles, but it believes that the opening up of the poles to others should be subject to careful consideration and planning. Lincolnville has not seen any analysis of who exactly these new attachers are, what burdens and demands they might place on the poles, and what methods exist to assure that they comply with their obligations as attachers. Lincolnville believes that this requires further study.

Given that there may be a lot of work to be done regarding Section 711, Lincolnville suggests that the legislature address the issues in a prioritized fashion. Lincolnville believes that the immediate problem is the cost and delays associated with the attachment process and the make ready process. This can be addressed by the immediate adoption of rules which address the procedures and timelines used, and the availability of techniques and methods that would reduce time and expense. Lincolnville believes that the PUC should be addressing these issues as soon as possible and that this can be done by quickly re-establishing the rulemaking process and focusing on those issues. At the same time, Lincolnville believes that there are other issues that will take more time, analysis and debate to resolve.

Lincolnville is prepared for the Committee's consideration of a draft bill which allows for immediate progress and sets the stage to address further issues. The attached bill has been prepared to accomplish the following:

1. Add an emergency preamble to the bill, so that the PUC can start working and start acting immediately, rather than 90 days after this legislature adjourns.

2. Preserve the Commission's current ability to address joint use and pole attachment issues on a case by case basis in response to complaints. This will allow the Commission to address specific issues, as needed, on a focused and hopefully expedited basis.

3. Authorize the Commission to address joint use issues by rule making, but not require the PUC to do so in general. This would avoid the need for the Commission to adopt a broad rule addressing a variety of issues which can be complicated and may take a long time to complete and allow the Commission to adopt rules where they are most needed on an expedited basis.

4. Direct the PUC to immediately commence a rule making proceeding to address the issues of the attachment process, make-ready and attachment methods which are currently impeding the deployment of broadband. The amendment would allow this focused rule to go into effect as soon as possible, without the need for legislative review and approval as a major substantive rule.

5. Preserve the current requirement that the PUC adopt a rule with regard to rates, which the PUC has already done.

6. Require the PUC to conduct a study to analyze the addition of new types on entities to be allowed to attach to poles and to develop recommendations to be presented to the legislature in the next session regarding what types of entities should be considered, what the potential benefits and potential detriments would be with regard to allowing them to attach to poles, what administrative changes may be necessary to accommodate an increase in types of attachers, and where should the cost responsibilities be allocated.

Thank you for your consideration of this testimony. We would be glad to respond to any questions to the best of our capability. We appreciate the opportunity to continue to work with the Committee and interested parties with regard to this important legislation.