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April 8, 2015

**Testimony of Rep. Walter Kumiega
Before the Joint Standing Committee on Energy Utilities & Technology
LD 992, An Act To Regulate Standards of Service for Mobile Telecommunications
Services and Broadband Services**

Senator Woodsome, Representative Dion and members of the Committee on Energy, Utilities & Technology – I am Representative Walter Kumiega, serving Vinalhaven, North Haven, Isle au Haut, Stonington, Deer Isle, Southwest Harbor, Tremont, Swans Island, the Cranberry Isles and Frenchboro. I am here today to present **LD 992, An Act To Regulate Standards of Service for Mobile Telecommunications Services and Broadband Services.**

This bill would allow the Public Utilities Commission to establish service standards and investigate consumer complaints for broadband and cell phone providers. Those industries would be added to the list of utilities that the PUC has authority over, such as telephone companies. We are at a point in time where those services are of equal value to the public. One could argue that for a business relying on broadband to process transactions, that access is more important than electricity. The store likely has a backup generator but no “Plan B” for electronic transactions.

The reason I submitted the bill is that I frequently get contacted by constituents seeking help with broadband and cell phone issues. Often they contact the PUC first and get referred back to me because the PUC has no jurisdiction in these areas. That doesn't make any sense to me. Internet and cell service have become as important in our daily lives as landline phone and electricity. Providers should be held accountable when they do not meet expectations for speed, coverage and repair times. These are competitive industries, but if a business loses their ability to process credit cards for a week in midsummer the option of changing providers is of little help.

Nobody wants more fees, and no one wants more regulations. But we have a problem, and unless the providers have an alternative way to fix it they are essentially asking for more regulation.

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

Hi Walter,

Thank you for bringing the bill LD 992 forward.

We live and work on Main Street in Stonington facing the harbor. We started our business, The New England Institute for Teacher Education, LLC, in 2011. Our organization provides high quality professional development to educators for licensure and relicensure and we have an academic partnership with an accredited university, and work closely with the Maine Department of Education's certification office.

Technology has made it possible to continue such a career in education in Stonington, and our organization is poised to experience significant growth in our online course offerings. We have hired part time instructors and employ one full time employee in addition to ourselves.

We have been unable to get consistent, adequate broadband speed. While we are paying for the full service, we are only receiving a fraction of that speed. This has impacted our business in multiple ways:

1. We are often booted from the internet
2. We have inconsistent connections, and no direct tech support.
3. For periods of time, we have to go without internet service.
4. Many hours have been spent trying to work with service providers, taking away time from other business matters.
5. Lost email messages.
6. Video conferencing and media streaming is unreliable.

These issues have negatively impacted our potential sales growth into the online market, limits possibilities for employing people, and hinders our communication capabilities overall. We cannot do business as hoped if the lack of adequate broadband speeds are not available to us.

As small business owners, we would hope that this Committee, the House and the Senate and the Governor will rectify this rural Maine issue.

Sincerely,

Catherine Ring
Executive Director
New England Institute for Teacher Education, LLC
PO Box 460, 36 Main Street
Stonington, Maine 04681
207-367-5807

Stephen York
Academic Dean

ENERGY, UTILITIES AND TECHNOLOGY COMMITTEE

TESTIMONY OF THE WIRELESS COALITION

LD 992 - An Act To Regulate Standards of Service for Mobile Telecommunications Services and Broadband Services

April 8, 2015

Chairman Dion, Chairman Woodsome, and members of the Energy, Utilities, and Technology Committee, my name is Jim Cohen of Verrill Dana, LLP, and I am here today to offer this testimony in *opposition* to LD 992 on behalf of the Wireless Coalition: AT&T, Sprint, T-Mobile, U.S. Cellular, and Verizon.

What would LD 992 do? Very simply, as drafted, LD 992 would attempt to regulate mobile telecommunications service on the State level as a utility, which is contrary to federal law and would reverse decades of policy in Maine regarding wireless services. LD 992 would also seek to regulate broadband services, which are not and never have been subject to state regulation in Maine or any other state. The broadband provisions also conflict with federal law.

Before talking about the merits of the bill, let me provide some important background regarding the wireless industry.

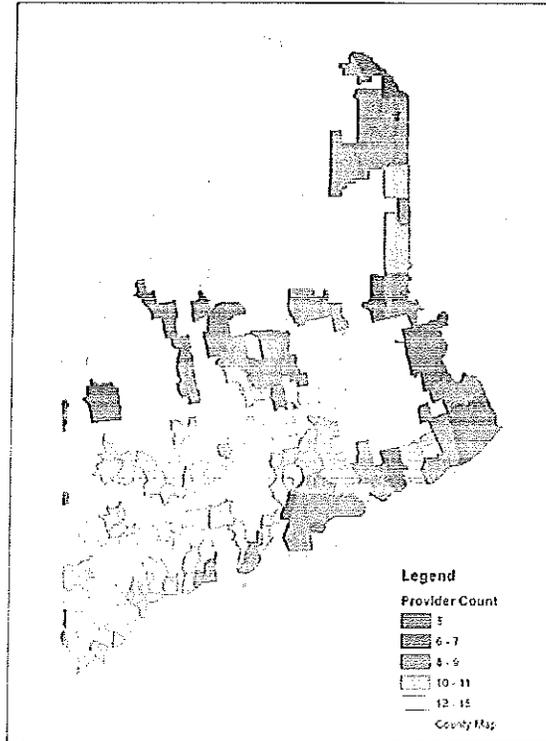
Wireless service is exclusively regulated by the FCC on a competitive basis. First, wireless services are regulated on the federal level by the FCC through a largely competitive model. This model was spurred by Congress' decision in 1993 to create a national regulatory framework for wireless. This national framework allowed wireless providers to offer innovative products and service options such as national rate plans, which significantly lowered the cost of wireless services and provided more consumers with greater access to wireless services. Because competition is working, the FCC has not sought to regulate rates or most terms of service of wireless carriers. Congress' 1993 decision also preempts most forms of state regulation.

Service in Maine continues to expand and improve. The competitive model has worked on multiple levels nationally, and in Maine. Service quality has improved dramatically, rates have gone down, coverage has improved, and customers get far more for much less. The value to Maine customers has not gone unrecognized.

- **Coverage.** Wireless carriers have been *investing \$110 million per year* over the past 4 years in Maine. That is far in excess of any other telecommunications sector. As a result, ever-improving services and coverage is steadily expanding to cover most of the populated areas of the State, and many of the highways where people travel. In fact, as the Public Advocate's independent study found earlier this year, wireless coverage in Maine may actually be better than what the carriers reported to the Maine PUC last fall.
- **Customer convenience** is another key benefit of wireless service. Not only can you take your phone wherever you go in America without roaming charges in most instances, but you can pay your bill, get information about your usage, and modify your services right from your phone. Customer service is easy to reach, and several of the major carriers maintain large call centers right in Maine. Customers looking for service can find stores in most parts of Maine in malls, shopping centers, or within many of the largest national retail chains.
- There are 5 major facilities-based carriers, and many resellers of service, including pre-paid providers. Over 91 percent of Maine consumers have a choice of four or more wireless providers to choose from. This competitive wireless market affords Maine consumers the opportunity to enjoy a wide variety of

choices for wireless services, plans, and devices. This foundation gives customers many choices, including access to federally subsidized Lifeline service from multiple wireless providers to customers meeting the financial eligibility criteria.

All Wireless and Wireline Providers in FairPoint NNE's Service Area

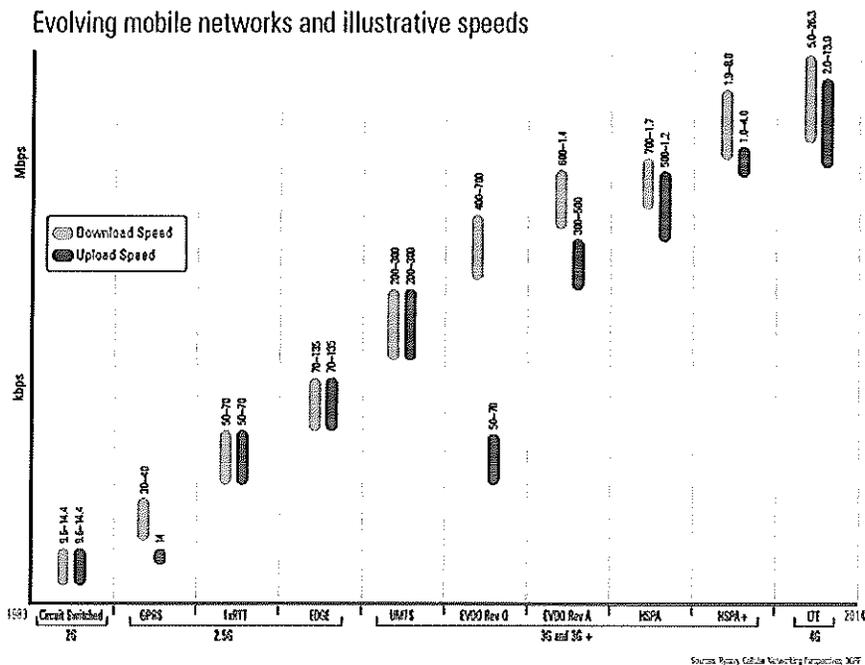


- There are nearly three times more wireless customers than traditional landline customers in Maine, which is not surprising given that the cell phone, even more than the wallet, is the thing most Americans cannot leave home without. According to the PUC's annual report in 2014, the number of Maine customers in each sector broke down along these lines:
 - Wireless Customers: 1,200,000
 - ILEC Customers: 345,780
- Reliability is another consumer benefit of wireless service. When phone lines are down, wireless service may still be operational because its service relies on signals that travel through the air. And if wireless service is knocked out due to weather or other disasters, it is rapidly restored because it only relies on a small number of major fiber lines, which are usually the easiest to be restored.
- Consumer protection. Competition means that wireless providers have major incentive to provide customers with great service, but this competition is supplemented by other controls. Since 2003, CTIA's Consumer Code for Wireless Service has been an important component to ensure superior customer service to wireless consumers.¹ The Code – which is followed in all 50 states – has helped consumers make informed decisions when selecting a wireless plan and has contributed to the continued competitiveness within the industry. The Code's 12 principles, disclosures, and practices

¹ CTIA Consumer Code for Wireless Service: http://www.ctia.org/consumer_info/service/index.cfm/AID/10352 (last visited 4/2/15).

include voluntary commitments by wireless providers to disclose rates, additional taxes, fees, surcharges and terms of service; provide coverage maps; make customer service readily accessible; and allow a trial period for new service, among other provisions. The Code operates without regard to state boundaries and within the industry's national framework.

- Connection speed is also exploding. Each transition from 1G up to 4G represents a 10-fold increase in data speed, and carriers are now offering service that, depending on location and traffic, ranges from 5-25 mbps download speeds, and 1-10 mbps upload speeds.



- Finally, wireless service is driving innovation. Phones are no longer just phones. They are rapidly becoming your wallet, your scheduler, your to-do list, your camera, your flashlight, your book, your newspaper, your music collection, your photo album, your navigator, your game console, and your emergency service connection. Jobs are being created to develop more and more apps to make your life better.

State regulation is not necessary. Maine has not regulated wireless service for decades, and for good reason. The Maine PUC regulates utility monopolies, but wireless service is competitive, and customers have choices – just like any other consumer product. If you don't like the service your carrier is providing, you can leave and get service from another carrier. And we know the competitive model is working because service is getting better, cheaper, wider, and gaining ever more customers.

State regulation of wireless is pre-empted. As noted earlier, federal law gives the FCC exclusive jurisdiction over the rates and market entry for wireless carriers, and this has been interpreted to also preempt terms of service to the extent such terms impact rates. Consequently, a state could not compel a wireless carrier to provide coverage for specific areas – that is a policy that is left up to the FCC and its policy of competition.

Wireless service is national, and uniformity is essential. Federal regulation also ensures a uniform approach to many important areas such as E-911 standards, emergency alerts, privacy, licensing and use of spectrum, etc.

Testimony of Wireless Coalition re: LD 992

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This uniform approach is critical to enable successful deployment of a mobile service that, by its very nature, crosses state boundaries and is national in scope.

More regulation conflicts with Maine's efforts to modernize telecommunications policy. Nearly three decades ago, the Maine Legislature specifically amended Title 35-A to ensure that wireless service providers would not be regulated as public utilities. This hands-off policy has worked extremely well and paid vast dividends to Mainers. In 2011, Maine's wireline carriers asked to be regulated less because the cost of utility-style regulation was interfering with their ability to compete and deliver value to customers. Wireless carriers joined in the effort to promote robust competition in the marketplace. This effort resulted in the 2012 Telecommunications Deregulation Act. Since then, wireless carriers have continued to invest, innovate, and deliver value to customers. Competition works.

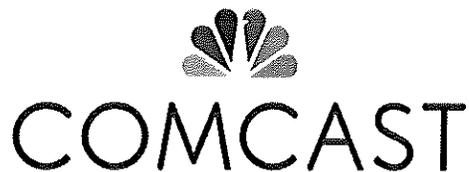
LD 992 has serious drafting problems. Leaving aside the merits of the bill, LD 992 is poorly drafted.

Section 1: Creates a new type of entity called a "broadband service provider" that offers "2-way, always on communications service that provides access to public data networks and the Internet." There are several confusing elements. First, to our knowledge, we don't know of a service that cannot be turned off. Second, all telecommunications services permit connection to the Internet, e.g. even through DSL or dial-up service. Third, connection to the Internet separate from a telecommunications service is generally not referred to as "2-way." In short, we can't really tell what type of service is intended to be regulated.

Section 2: Mobile telecommunications providers fall within the definition of "voice service provider" in Title 35-A, yet this bill adds "mobile telecommunications service provider" into the enforcement provisions of Title 35-A. This creates tremendous ambiguity. Moreover, numerous other provisions of Title 35-A are applicable to some carriers but not others, yet this bill does not address those sections of law. In short, we cannot tell what type of regulation is intended by this bill regarding mobile providers.

Section 3. This section gives the PUC authority to develop "service standards" for wireless providers and broadband providers, but gives no direction regarding what services are intended to be included. As noted before, most state regulations are preempted by federal law or otherwise inconsistent with the clear policy direction established by the Legislature not only since the 2011 Deregulation Act, but in the many years before with regard to wireless service and Internet service.

Conclusion. For the reasons noted, we ask the Committee not to support LD 992. The light-touch regulatory environment is working, and taking steps to regulate wireless service would risk undermining the tremendous improvements customers have experienced in terms of service quality, reliability, and price. Thank you, and please let us know if we can provide any additional information.



**Testimony of Chris Hodgdon, Vice President Government Relations
Joint Committee on Energy, Utilities and Technology
April, 8 2015**

Chairman Woodsome, Chairman Dion and distinguished members of the Committee; thank you for the opportunity to offer comments today in opposition to LD 992, which proposes to give the Maine Public Utilities Commission authority to regulate broadband services and providers. Broadband service has flourished in Maine and throughout the United States in part because policy makers have refrained from applying utility regulations to these services for very good reasons.

Investment in broadband networks continues to increase resulting in fast paced growth in availability as well as high quality services. Policy makers have consistently recognized that attempting to apply regulations on a state by state basis to a service that has been repeatedly determined to be interstate in nature will only result in deterred investment and innovation which will inevitably lead to federal preemption. No state in the nation regulates broadband in a manner even remotely similar to that which is proposed in LD 992, creating such a disincentive to investment when Maine is wrestling with how to encourage such investment is entirely the wrong policy decision.

Rejecting state by state regulation of broadband has been a resounding success here in Maine and across the nation. Consumer broadband speeds have increased dramatically over the last few years as providers invest in their network capacity. By any measure, prices have come down as consumers receive more and more bandwidth for their dollar and providers continually improve their service quality with very few complaints to government regulatory agencies. This record of investment and value does not argue for increased regulation the risk to the broadband success story is too great.

Speeds continue to increase, Comcast has increased its broadband product speeds 14 times in the last 13 years with our top residential speed of 505Mbps and our top commercial speed of 10Gbps offered throughout our Maine network. Speeds have increased dramatically across all of our speed tiers. In 2004 our fastest and most popular speed tier offered customers 3Mbps/256Kbps now our most popular speed tier is over 700% faster and our fastest offering an impressive 16,000% faster.

Competitive pricing has driven impressive penetration growth as well. Maine's subscription rate according to the FCC's October, 2014 *Internet Access Services: Status as of 12/31/2013* report, which is the most recent publically available data shows that Maine is 14th among all states in its subscription rate. More impressively, the

FCC's recent January, 2015 *Broadband Availability in America* report found that the percentage of Maine's rural population which had access to the FCC's 25Mbps/3Mbps standard was 9th best which is an impressive result when you consider that Maine is the most rural state in the country by population. Among broadband services provided by cable providers in Maine, during the five years between 2009 and 2014 the number of customers with broadband has grown an impressive 55.9% as broadband becomes more available and relevant to customer's lives.

Along with investment in network capacity and a record of delivering more value for the consumer's dollar, providers are working hard to keep customers satisfied in a competitive marketplace. Over the last 2 years, customers have reached out to the Maine PUC, FCC, Maine AG or the Better Business Bureau on average less than once a month on any issue where they were unsatisfied with their broadband service. While we have much work to do to satisfy every customer all of the time there are very few customers who feel like they have to reach out to a third party like the ME PUC to have their issue resolved. This low number of customer escalations certainly doesn't argue for the creation of a whole new state level regulatory regime over broadband service.

While there is no evidence that state regulation of broadband services or providers is warranted, the risk of deterring investment and innovation is an equally important reason why this legislation should be rejected. Regulation such as what is proposed in this legislation will reach into all aspects of the broadband ecosystem impacting not just network operators but the services and applications accessed through those networks. Maine innovators and the Maine economy cannot afford to impose this unnecessary burden on broadband providers. Broadband is a powerful catalyst for innovation because innovators are free to try new concepts and develop new products if that freedom is constrained Maine will risk seeing investment go elsewhere.

This is too high a risk for Maine to take, we urge you to oppose LD 992.

Thank you for your time and attention.

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TESTIMONY of Melinda Poore, Time Warner Cable
 LD 992 An Act To Regulate Standards of Service for Mobile Telecommunications Services and
 Broadband Services
 April 8, 2015

INTRODUCTION

Chairman Woodsome, Chairman Dion and members of the Joint Standing Committee on Energy, Utilities and Technology. My name is Melinda Poore, Vice President of Government Relations for Time Warner Cable. We respectfully submit testimony in opposition of LD 992 An Act To Regulate Standards of Service for Mobile Telecommunications Services and Broadband Services.

DISCUSSION:

Broadband is a highly competitive service where consumers have choices of at least three providers throughout most of Maine and are able to shop around for the best prices and service levels that meet their needs. Broadband services have flourished under the current regulatory framework over the past 18 years. Imposing state regulations are both unnecessary and impermissible under federal law.

As a result of the competitive nature of broadband services and the consumer-driven need for more bandwidth, broadband speeds are increasing at a very fast pace, with prices going down or staying relatively flat in most instances. Below is a table illustrating our broadband speeds and prices today in comparison to 2008.

2008	Speed	Price	2015	Speed	Price
Lite	768kbps x 128kbps	\$19.95	Every Day low price	2 Mbps x 1 Mbps	\$14.99
Basic	1.5Mbps x 256kbps	\$29.95	Basic	6 Mbps x 1 Mbps	\$29.99
Standard	5Mbps x 384kbps	\$44.95	Standard	15Mbps x 1 Mbps	\$34.99
Turbo	10Mbps x 1Mbps	\$54.90	Extreme	30 Mbps x 5 Mbps	\$54.99
			Ultimate	50 Mbps x 5 Mbps	\$64.99

Providing good service is a priority for Time Warner Cable. We have a call center in Portland with over 150 representatives who are there to assist customers 24/7 with issues or problems they are having with their services, including broadband. Our technical support team is able to help broadband customers troubleshoot issues or even schedule one of our 350 Maine technician's to come to their home to resolve any service related issues. Ensuring that a customer's service is working properly is our number one goal.

Another important point to keep in mind is that the FCC has classified Internet services is an interstate service and therefore they can preempt any state regulations that are inconsistent with the FCC's rules and orders governing broadband service.

CONCLUSION:

In conclusion, imposing state regulations on broadband will not be helpful to the State's efforts to advance broadband deployment to more unserved areas in Maine nor will it provide an incentive for providers to want to continue investing in a State that impedes innovation. We respectfully ask that this bill ought not to pass.

Testimony of FairPoint Communications

Before the Joint Standing Committee on Energy, Utilities and Technology

LD 992, An Act To Regulate Standards of Service for Mobile Telecommunications Services and Broadband Services

April 8, 2015

Good afternoon, Chairman Woodsome, Chairman Dion, and distinguished members of the Joint Standing Committee on Energy, Utilities and Technology. My name is RoJean Tulk. I live in New Gloucester, Maine. I am Director of Government Relations for FairPoint Communications. On behalf of FairPoint, I'm here today to offer the following comments in opposition to LD 992:

LD 992 seeks to regulate several technologies in today's telecommunications market in order to dictate service standards, investigate consumer complaints, and impose penalties if those complaints lead to a determination that a violation has occurred. This type of regulation was developed in the early 20th Century when heavy-handed regulation was deemed necessary based on the premise of a "natural monopoly" where the costs of infrastructure were so high that competition wasn't possible.

Regulation is only necessary to protect consumers when there is no competition in the market. Today, in the 21st Century, there is no consensus that there is a market failure necessitating increased and additional regulation on telecommunications. Maine, like the rest of the United States, is experiencing robust telecommunications competition from three distinct broadband technologies – Telco, Cable, and 4G Wireless services. And Maine, like the rest of the U.S., has successfully deregulated telecommunications as a result of the growing competitive marketplace. This has led to a wider range of products and services, and lower, more competitive prices.

The free and open market for broadband and wireless technologies is driving investment and innovation. The role of government in 21st Century telecommunications is best delivered by exercising restraint and letting innovators innovate. In the competitive market, consumers – be they businesses or individuals - have a wide variety of choices and can migrate to the service provider whose prices, products and services, and quality of service best match consumers' needs. And increased competition drives private investment, something a financially challenged state like Maine should not overlook.

Maine seeks to move forward with telecommunications policies that encourage investment and competition, but this bill would do exactly the opposite. LD 992 appears to promote needless regulation of a system that flourished precisely because of a lack of regulation. The Internet makes up 5% of America's economy. Digital goods and services are now the third largest American export, and broadband and the related IT industry directly support nearly 11 million jobs in the United States. The United States, just 4% of the world's

population, accounted for one quarter of the world's investment in communications networks in 2013 - nearly \$70 Billion - according to the worldwide telecommunications market research firm Infonetics. Fifteen of the world's top 25 Internet companies come from the U.S. This history suggests that a laissez-faire approach has spurred the Internet, incentivizing consumers and broadband, content, and application providers. It's hard to justify that a new regulatory regime will correct or improve the experience to date.¹

While we appreciate the concerns brought forward with regard to the need for continued investment in broadband and mobile communications services, passage of LD 992 will not lead to telecommunications investment, improvement, or innovation. In fact, it will do just the opposite by sending the message to the private market that Maine is returning to outdated and obsolete telecommunications regulation.

For these reasons, we urge you to vote "Ought Not To Pass" on LD 992. I'm happy to answer questions, now and at the work session.

¹ <http://www.forbes.com/sites/realspin/2014/06/02/five-political-appointees-could-determine-the-internets-future-and-most-americans-dont-care/>



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GOVERNOR

PATRICK C. WOODCOCK
DIRECTOR OF GOVERNOR'S
ENERGY OFFICE

**TESTIMONY OF LISA SMITH
GOVERNOR'S ENERGY OFFICE**

**L.D. 992 - An Act To Regulate Standards of Service for Mobile Telecommunications
Service and Broadband Services**

Senator Woodsome, Representative Dion, and Members of the Joint Standing Committee on Energy, Utilities and Technology, I appreciate the opportunity to provide testimony in opposition to LD 992.

L.D. 992 would require the Public Utilities Commission to regulate standards of service for both mobile telecommunications providers and broadband providers. The Federal Communication Commission (FCC) regulates interstate communications by cable, satellite, radio, and television – which includes mobile communications providers. Regulation at the federal level would preempt any state regulation, including standards of service, which could affect entry into the market.

With respect to broadband providers, the Federal Communication Commission's recently released order on 'net neutrality' states that regulation of broadband by individual states would likely be in conflict with federal law, as state regulation of service availability, coverage areas, and speeds could impact entry into the market.

However, federal preemption isn't the only issue. The state's regulatory environment in general already suffers from the perception that Maine is 'unfriendly' to business. Imposing regulations on these previously unregulated providers would very likely result in these national carriers choosing to make infrastructure investments in other states, and that isn't the result we'd like to see for Maine.

For these reasons, the Energy Office opposes LD 992. I would welcome any questions.



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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COMMISSIONERS

Harry Lanphear
ADMINISTRATIVE DIRECTOR

April 8, 2015

Honorable David Woodsome, Senate Chair
Honorable Mark N. Dion, House Chair
Energy, Utilities and Technology Committee
100 State House Station
Augusta, Maine 04333

**Re: LD 992, An Act to Regulate Standards of Service for Mobile
Telecommunications Service and Broadband Services**

Dear Senator Woodsome and Representative Dion:

The Public Utilities Commission (Commission) testifies neither for nor against LD 992, An Act to Regulate Standards of Service for Mobile Telecommunications Services and Broadband Services. LD 992 would require that the Commission promulgate major substantive rules that would establish service standards for mobile telecommunications carriers and providers of broadband service, and would permit the Commission to investigate consumer complaints and assess administrative penalties against providers that fail to meet those standards.

The Commission does not currently regulate either the terms of entry into the market or the rates of commercial mobile service carriers or broadband providers.¹ The federal communications statutes expressly preempt the states from undertaking such regulation in connection with mobile service.² With respect to broadband, the Federal Communications Commission (FCC), in its recent "Net Neutrality" Order declaring broadband Internet access service to be a "telecommunications service" under federal law, cautioned that it would likely preempt as conflicting with federal law any attempt by a state to restrict entry into the broadband market through certification requirements or to regulate the rates of broadband Internet access service.³ To the extent that LD 992 contemplates the imposition of "service standards" intended to require improvements by cellular and broadband carriers in areas such as coverage, availability, and upload/download speeds, those standards might be viewed as conditions placed upon entry into the market and therefore subject to federal preemption.

Aside from preemption concerns, the imposition of service standards governing

¹ The Commission does, however, annually review the capital improvement projects that U.S. Cellular, as an "eligible telecommunications carrier", voluntarily undertakes in exchange for the receipt of federal universal service fund allotments, to ensure, and certify to the FCC, that the federal funds are being used for the purposes intended.

² 47 U.S.C. § 332(3).

³ *Protecting and Promoting the Open Internet*, ¶ 433, GN Docket No. 14-28, FCC Report and Order on Remand, Declaratory Ruling, and Order (March 12, 2015).

April 8, 2015

wireless and broadband service might have the unintended consequence of impeding Maine investment in advanced telecommunications infrastructure by national carriers. There is typically competition for capital within such companies, and the ability of managers of operations in Maine to obtain funding for build-out activities may be affected by the real or perceived cost of new regulation of the sort that LD 992 appears to envision.

The Commission looks forward to working with the Committee on LD 992 and I would be happy to respond to questions the Committee has at this time. The Commission will also be present at the work session should the Committee have additional questions in its consideration of this bill.

Sincerely,



Paulina McCarter Collins, Esq.
Legislative Liaison

cc: Energy, Utilities and Technology Committee Members
Deirdre Schneider, Legislative Analyst