



March 26, 2019

The Honorable Mark Lawrence
Chair, Joint Committee on Energy, Utilities and Technology
52 Wildbrook Lane
Eliot, ME 03903

The Honorable Seth Berry
Chair, Joint Committee on Energy, Utilities and Technology
1245 River Road
Bowdoinham, ME 04008

RE: Opposition to LD 1206 – “An Act To Improve Aboveground Utilities’ Responsiveness to Public Interests”

Dear Chairs Lawrence and Berry,

On behalf of CTIA, the trade association for the wireless communications industry, I am writing in opposition of LD 1206, “An Act to Improve Aboveground Utilities’ Responsiveness to Public Interests.” As introduced, LD 1206 imposes unclear new requirements on wireless providers as they seek to maintain and upgrade wireless networks in the rights-of-way (ROW).

Firstly, it is important to note that the residents of Maine continue to demand – at increasing levels – access to wireless products and services. This is demonstrated by the fact that there are as many wireless devices as there are people in Maine.¹ In addition, nearly half of Maine residents live in wireless-only households.² These demands from customers, which includes the residents and businesses of Maine, require that wireless networks be both updated to meet the existing demand and readied for the next generation of wireless services.

To accommodate the insatiable appetite consumers have for mobile services today, mobile wireless providers continue to install cell antennas throughout Maine to expand and improve coverage. In fact, in the past seven (7) years, carriers have invested an average of \$98 million per year for a total of \$690 million in buildout throughout the state. This buildout is being supplemented by newer “small cell” wireless antennas that are typically mounted on utility poles in the public rights-of-way. Tens of thousands of these facilities have been installed around the

¹ FCC, Voice Telephone Services Report: Status as of June 30, 2017, at <https://www.fcc.gov/voice-telephone-services-report>, last accessed 3/22/2019.

² CDC, National Center for Health Statistics, https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201712.pdf, last accessed 3/22/2019.



country in the past several years to help “densify” the existing wireless network and to ensure there is sufficient capacity to meet the needs of customers.

Small cells are also a critical component of the next generation of wireless networks, referred to as 5G, or fifth generation. Tomorrow’s networks will rely on this new wireless technology, which will generally be placed on structures such as utility poles and streetlights in the public ROW. In a few short years, nearly everything will be connected to ubiquitous wireless networks at speeds up to 100 times faster than today, unlocking new 5G services from remote healthcare solutions to autonomous cars. Maine’s communities will be smarter and more connected, and entire sectors, from public safety to tourism, to transportation, will be transformed.

However, as introduced, LD 1206 contains provisions that could hamper the ability for Maine to realize the benefits of small cell facilities from densification of existing 4G networks to investment to support future 5G opportunities.

LD 1206 allows municipalities to adopt “annual licensing requirements” on telephone utilities and mobile wireless providers, even though state and local regulation of the rates and terms of wireless service is not allowed. CTIA and its members are not clear what this provision intends, or how the requirements would differ from the safety standards that currently guide the issuance of utility facility location permits. Undue and overly-broad licensing requirements could slow and potentially inhibit wireless providers’ ability to deploy infrastructure in a timely manner.

Secondly, LD 1206 appears to require that a facility location permit may be required when a facility is “replaced” or when “additions” are made to a facility. This would include replacing a facility damaged by a storm or other casualty, or upgrading a facility to keep up with evolving wireless technology. Current law allows such activities to occur without a new permit if the activities are “within the scope of the permit.” Furthermore, other states across the country who have proactively enacted statewide legislation to streamline the deployment of small wireless infrastructure, mirror Maine’s current practice; in other words, a permit for a small wireless facility covers initial installation as well as other upgrades or replacements. Should Maine change its statute, it would be out-of-step with the approach taken by nearly half the country.

Finally, LD 1206 contemplates imposing a new right-of-way access fee that would cover wireless providers that attach to utility poles. It important to bear in mind that wireless providers already pay significant fees and taxes to Maine government for their infrastructure and business activities in the state. These fees include tens of millions of dollars in telecommunications personal property excise taxes as well as sales and income taxes that are paid to the state.



In closing, the wireless industry remains committed to providing the most advanced wireless service to its customers in Maine. We also very much look forward to partnering with Maine municipalities to ensure their residents and businesses have the opportunity to get advanced services and expanded coverage, in a manner that respects the needs of local communities. However, the industry's investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. We oppose LD 1206 as it does not reflect such forward-looking regulation.

Sincerely,

Bethanne Cooley
Senior Director, State Legislative Affairs
CTIA