



127th MAINE LEGISLATURE

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Legislative Document

No. 882

H.P. 601

House of Representatives, March 12, 2015

**An Act To Ensure That Telephone Utility Reorganizations Advance
the Economic Development and Information Access Goals of the
State**

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HOBBS of Saco.
Cosponsored by Representatives: DION of Portland, GIDEON of Freeport, McCABE of Skowhegan.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 35-A MRSA §708, sub-§2, ¶A,** as enacted by PL 1987, c. 141, Pt. A, §6,
3 is amended to read:

4 A. Unless exempted by rule or order of the commission, no reorganization may take
5 place without the approval of the commission. No reorganization may be approved
6 by the commission unless it is established by the applicant for approval that the
7 reorganization is consistent with the interests of the utility's ratepayers and investors.
8 ~~The commission shall rule upon all requests for approval of a reorganization within~~
9 ~~60 days of the filing of the request for approval. If it determines that the necessary~~
10 ~~investigation cannot be concluded within 60 days, the commission may extend the~~
11 ~~period for a further period of no more than 120 days. In granting its approval, the~~
12 ~~commission shall impose such terms, conditions or requirements as, in its judgment,~~
13 ~~are necessary to protect the interests of ratepayers. These conditions shall must~~
14 ~~include provisions which assure the following that ensure:~~

15 (1) That the commission has reasonable access to books, records, documents and
16 other information relating to the utility or any of its affiliates, except that the
17 Public Utilities Commission may not have access to trade secrets unless it is
18 essential to the protection of the interests of ratepayers or investors. The
19 commission shall afford trade secrets and other information such protection from
20 public disclosure as is provided in the Maine Rules of Civil Procedure;

21 (2) That the commission has all reasonable powers to detect, identify, review and
22 approve or disapprove all transactions between affiliated interests;

23 (3) That the utility's ability to attract capital on reasonable terms, including the
24 maintenance of a reasonable capital structure, is not impaired;

25 (4) That the ability of the utility to provide safe, reasonable and adequate service
26 is not impaired;

27 (5) That the utility continues to be subject to applicable laws, principles and
28 rules governing the regulation of public utilities;

29 (6) That the utility's credit is not impaired or adversely affected;

30 (7) That reasonable limitations be imposed upon the total level of investment in
31 nonutility business, except that the commission may not approve or disapprove of
32 the nature of the nonutility business;

33 (8) That the commission has reasonable remedial power including, but not
34 limited to, the power, after notice to the utility and all affiliated entities of the
35 issues to be determined and the opportunity for an adjudicatory proceeding, to
36 order divestiture of or by the utility in the event that divestiture is necessary to
37 protect the interest of the utility, ratepayers or investors. A divestiture order ~~shall~~ must
38 must provide a reasonable period within which the divestiture ~~shall~~ must be
39 completed; and

40 (9) That neither ratepayers nor investors are adversely affected by the
41 reorganization.

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Sec. 2. 35-A MRSA §708, sub-§2, ¶A-1 is enacted to read:

A-1. Unless exempted by rule or order of the commission, in addition to the requirements under paragraph A, before approving a reorganization in which any of the public utilities that are parties to the proposed transaction is a telephone utility that has gross annual state revenues exceeding \$50,000,000, the commission:

(1) Must find that the proposal will advance the economic development and information access goals of the State as set forth in section 7101, subsections 2 and 4;

(2) Must find that the reorganization does not result in changes to the location and the accessibility of the telephone utility's management and operations, or the proportion and number of the telephone utility's employees who reside in the State, that would adversely affect safety, reliability or quality of service; and

(3) Shall impose such terms, conditions or requirements as in the commission's judgment are necessary to ensure that the reorganization provides an affirmative benefit to the public.

Sec. 3. 35-A MRSA §708, sub-§6 is enacted to read:

6. Time for approval. The commission shall rule upon all requests for approval of a reorganization, except the approval of a reorganization subject to subsection 2, paragraph A-1, within 60 days of the filing of the request for approval. If the commission determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days.

SUMMARY

This bill requires the Public Utilities Commission to consider additional requirements before approving a reorganization involving a telephone utility with gross annual state revenues greater than \$50,000,000. The commission may approve the reorganization only when it is satisfied that the proposal will advance the economic development and information access goals of the State; that the reorganization does not result in changes to the location and the accessibility of the telephone utility's management and to employment levels in a manner that would adversely affect safety, reliability or quality of service; and that the reorganization provides an affirmative benefit to the public. The bill also removes the requirement that the Public Utilities Commission rule upon a request for the reorganization of a large telephone utility within 180 days.