

**2011 AASHTO Right of Way & Utilities and Design
Subcommittee Meeting
May 9-13, 2011
St. Louis, Missouri**

Session VII – Multi Level MOUs

**Memorandum of Understanding for
Overhead Utilities/MaineDOT/AGC Maine**

AASHTO
THE VOICE OF TRANSPORTATION



Background – Utilities Occupying Highway ROW

- Maine law allows public utilities to occupy the Highway ROW at no-cost to the utility.
 - Rules: MaineDOT Utility Accommodation Policy
 - Via permit
 - The location of the utilities can not adversely impact the transportation corridor.
- Whenever MaineDOT undertakes a transportation improvement project:
 - Utilities within the Highway ROW must relocate as required, at the expense of the utility.
 - Case law

MaineDOT - Utility Interaction

- Utility Coordination Process -

- Involve utilities early in the project development process
 - continually update utilities during project development.
- Utilities design facilities based on project requirements, and Department Accommodation Policy.
- Utilities determine working days to complete relocations associated with Project.
 - Information included with contract documents
 - Contractor required to accommodate utility relocations in construction schedule.

AASHTO
THE VOICE OF TRANSPORTATION

MaineDOT – Aerial Utilities

First MOU ~ 1992

2008:

- Aerial Utility Industry
 - Over the years, the relocation of aerial utilities has been pushed closer and closer to the edge of the highway ROW.
 - Greatly reducing trim-rights within the ROW.
 - Reduced timeline for aerial utility design, from Project notification to construction.

AASHTO
THE VOICE OF TRANSPORTATION

MaineDOT – Aerial Utilities

2008 (continued):

- MaineDOT:
 - Continuing efforts to reduce ROW impacts.
 - As projects become more complex
 - Reduced ROW impacts result in smaller highway ROW corridors
 - Maintain clear zone requirements
 - Aerial utility relocations established from edge of travelway
 - Reduced funding
 - Department's obligated to deliver projects
 - This can result in short timeline to deliver project

AASHTO
THE VOICE OF TRANSPORTATION

Memorandum of Understanding

- Overhead Utilities/MaineDOT/AGC Maine -

Agree to Facts:

- 1) MaineDOT & Utilities have public responsibilities
 - Extensive capital infrastructure
 - Operate under legislative and regulatory oversight
- 2) Utilities are allowed to occupy public ROW
- 3) MaineDOT has authority to require utilities to relocate to accommodate transportation improvements

AASHTO
THE VOICE OF TRANSPORTATION

Memorandum of Understanding

- Overhead Utilities/MaineDOT/AGC Maine -

Agree to Facts:

- 4) MaineDOT & Utilities' risk and costs are lowered when:
 - Establish clear expectations
 - Maintain open communications
 - Coordinate activities
 - Cooperate in carrying out utility relocations
- 5) MaineDOT & Utilities must continually adjust to changes
- 6) The operating context between MaineDOT & Utilities, recommends execution of MOU
 - Provisions as mutually accrued upon

AASHTO
THE VOICE OF TRANSPORTATION

MOU – I. General Operating Principles

A. Utility Accommodation Policy

- Utilities subject to rules in Department's Accommodation Policy.
- MaineDOT to Acquire sufficient rights for utility trimming.

B. Problem Solving

- When MaineDOT cannot acquire sufficient rights:
 - MaineDOT and Utilities to explore alternative designs

C. Safety

- Adequate safe working area for Contractor

MOU – II. Coordination, Cooperate, & Communication (CCC)

A. CCC

- MaineDOT & Utilities agree to CCC throughout the entire project development process.

B. ROW to meet MaineDOT's & Utilities' needs

- 8 feet from the furthest overhead line from centerline
- When not possible, MaineDOT & Utilities to explore design alternatives

C. Constructability Reviews

- Whenever MaineDOT has a constructability review with the contracting industry.
 - Consideration to utilities

AASHTO
THE VOICE OF TRANSPORTATION

MOU – III. Project Utility Agreements (PUAs)

A. PUAs

- Completed for each project.
- Identifies relocation work for each utility, work order, and duration
 - Pole Owner & Attaching Entities
 - Signed by Each Utility and MaineDOT
- Outlines remedies for non-performance by a party of the PUA
- Identifies person in management of each utility to notify for non-performance

B. Coordination with Attaching Entities

- If Attaching Entity are non-responsive to requirements of PUA:
 - Pole Owner will facilitate.

AASHTO
THE VOICE OF TRANSPORTATION

MOU – Other Provisions

IV. Construction

- A. Advanced Utility Relocations.
- B. Continued CCC

V. Process for Protecting New Utility Facilities

VI. Continued Coordination

- A. Meet as required to update and refine MOU

Rest of the Story

- MOU Signed February 25, 2009
 - Negotiated by Department Front Office & Utility Upper Management
 - Department Utility Engineer Position Vacant
 - Filled August 2009
 - Provisions went unimplemented
- Provisions Implemented Fall of 2009
 - Used on projects where utility relocations are anticipated along with ROW acquisitions

Rest of the Story (continued)

- First Partnering: February of 2010
 - Provisions & Expectations
 - Developed PUA
- Using for 1 ½ years, has it been working?
 - That depends
 - Department has been obtaining additional ROW
 - Exceptions to avoid full takes, or historic/4(f) properties
 - Utilities have been relocating in a timely manner
 - Reduced utility project delays
 - Still have not signed a PUA

Internet Sites

- MaineDOT Utility Accommodation Policy
 - <http://www.maine.gov/mdot/utilities/uap.htm>
 - [http://www.maine.gov/mdot/utilities/documents/pdf/Utility%20Accommodation%20Policy 07-28-2009 Final.pdf](http://www.maine.gov/mdot/utilities/documents/pdf/Utility%20Accommodation%20Policy%2007-28-2009%20Final.pdf)
- Memorandum of Understanding
 - [http://www.maine.gov/mdot/utilities/documents/AerialutilityMOU 02 25 09.pdf](http://www.maine.gov/mdot/utilities/documents/AerialutilityMOU%2002%2025%2009.pdf)

Questions: Jeff Tweedie, MaineDOT - Utility Engineer
jeff.tweedie@maine.gov

AASHTO
THE VOICE OF TRANSPORTATION