

# MAINE STATE LEGISLATURE

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# HOUSE OF REPRESENTATIVES

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### **Statement of Rep. Cynthia Dill**

#### **Introducing LR 3611**

#### **Resolve, To Establish a Stakeholders Group To Study Excess Capacity of Cable Rates Conversion from Analog to Digital**

President Edmonds, Speaker Cummings and distinguished members of the Legislative Council:

My name is Cynthia Dill, and I represent House District 121, which includes part of Cape Elizabeth. I appear before you today to request that you approve this bill for introduction into the second session of the 123<sup>rd</sup> Legislature.

The bill would direct the Office of Energy Independence and Security to convene a stakeholders group that would include two legislators – one from the House and one from the Senate – to study the potential sale or lease of excess broadband capacity owned by the state or through the university system. The group would report its findings to the Utilities and Energy Committee by January 15, 2009.

Given our state's grave financial situation, the sale or lease of excess broadband capacity resulting from the conversion of analog channels to digital could be a great way to raise considerable revenue.

The federal government recently auctioned off its excess broadband capacity for \$19.6 billion. And many states are in the midst of negotiating for substantial payments. For example, in the article I've included with this testimony, you will note that Milwaukee-area education institutions have received a \$12.6 million upfront payment for the lease of excess broadband capacity in addition to monthly payments of \$165,000 with annual increases, which, all told, will generate \$108 million.

The University of Maine system plans to negotiate a contract for its excess broadband capacity as well. Representatives from the university system indicated to me that the state makes an annual appropriation from the General Fund of \$20-30 toward communications. Given the state's funding of this infrastructure, the Legislature should be part of any negotiations on the sale or lease of excess capacity to ensure a maximum return on this investment of taxpayer dollars.

Thank you for your consideration of this important matter. I am happy to answer any questions the council may have.

## UMS sees revenue in the airwaves

Monday, January 28, 2008 -  
Bangor Daily News

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AUGUSTA, Maine — Like several educational institutions across the country, the University of Maine System has discovered it has the communications industry equivalent of beachfront property.

UMS is negotiating to take advantage of a Federal Communications Commission decision that will improve its instructional television service, help Mainers gain access to broadband Internet services and bring the university a new revenue stream

"We recognize the importance of this opportunity," UMS Chancellor Richard Pattenaude said last week. "We are looking forward to cooperating with private corporations and other parts of state government to provide broadband access to a greater part of the state to support economic development."

The FCC is allowing educational institutions that hold licenses for frequencies used to broadcast instructional programs to lease some of that scarce capacity to private companies for use in providing wireless broadband services. The FCC started granting licenses to educational institutions in the 1960s so they could send televised instruction to classrooms.

UMS has 26 transmission sites from York County to northernmost Aroostook County, and the signal from each transmitter has a reach of about 35 miles. Nearly all of the populated regions of the state are covered by the transmissions.

"We are not giving up any capacity; we are gaining capacity and channels," Pattenaude said. "We will be able to do more classes over the system with better quality."

Ralph Caruso, the chief information officer of UMS, said last week that is possible because all of the transmitters will be upgraded from analog to digital. He said the space occupied by one analog channel can hold several digital channels.

"The direction from the board is to negotiate a deal that provides enough of an upfront payment to pay for that conversion," he said, "and then we want an annual lease payment."

In other states, that has been the pattern, with some schools negotiating for substantial payments. For example, Milwaukee-area educational institutions recently signed a deal that totaled \$12.6 million upfront with monthly lease payments of \$165,000 with annual increases. The total payment to the schools over the next three decades is estimated at \$108 million.

Caruso declined to estimate what UMS might get for payments, but he expects its terms would be similar to the Milwaukee agreement, with an upfront payment as well as lease payments over a period of years.

"We are not the market size of that area," he said, "so if the company that negotiates with us uses the same business model, we will get something less than that."

"It will be a win-win situation," he said. "It should be enough to convert our existing educational channels to digital, add capacity and have the funds to maintain the system in future years."

Not mentioned by either Pattenaude or Caruso is that the current system maintenance is an annual expense to UMS that could be covered by the payments, freeing up dollars for other uses by the university system.

In addition to the benefits to the university system, the leasing of the frequencies for use by one or more wireless broadband providers will benefit the state's economy. In some areas of the state, there is no high-speed Internet access that has competitive rates, and the deal has the potential of increasing competition in the rest of the state.

Maine PUC chairman Kurt Adams, who also serves on the ConnectMe Authority, praised the university trustees for approving the negotiations.

"This will not be the solution, but it will be a solution for many businesses throughout the state," he said.

Adams said in many cities and towns there already is competition, with cable companies and phone companies offering broadband access. He said larger firms are using fiber-optic links. But, he said, there are still communities without access at affordable cost.

"There is a lot of potential in this use of wireless, and I applaud the university for it moving forward on this," he said.

But, Caruso said, so far those providers that have expressed interest are looking to lease the frequencies along the Interstate 95 corridor as far north as Bangor. That would leave considerable capacity unused in other areas of the state.

"That's where we have to talk with other parts of state government," Pattenaude said.

Getting the deal negotiated and putting new systems in place will take at least a couple of years, Caruso said.

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March 26, 2008

Business

## FCC Auctions Off Airwaves

by Michele Norris and Laura Sydell

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All Things Considered, March 20, 2008 · The FCC auctions off a huge new chunk of the airwaves for wireless communication. Verizon Wireless bought the best part of the airwaves, known as the "C" block. AT&T also purchased some of the spectrum.

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### Airwaves Auction Winners Named

from **The Associated Press**

WASHINGTON March 21, 2008, 07:23 am ET · The two largest cell phone companies dominated bidding in a record-setting government airwaves auction.

AT&T Inc. and Verizon Wireless combined to account for \$16 billion of the \$19.6 billion bid in the auction, an Associated Press analysis of Federal Communications Commission data released Thursday shows. Verizon Wireless bid \$9.4 billion and AT&T \$6.6 billion.

The results raised concern that the auction failed to attract any significant new competitors to the cellular telephone market to challenge the dominant companies. For example, Google Inc. was not among the winners, meaning the search engine giant will not be entering the wireless business.

One new entrant, Frontier Wireless LLC, owned by direct broadcast satellite television company EchoStar Corp., won nearly enough licenses to create a nationwide footprint. Frontier bid \$712 million, according to FCC data.

The spectrum was made available thanks to the nationwide transition to digital broadcasting. The hope is that consumers will benefit from more advanced wireless services such as high-speed Internet access. The money raised will be used to help public safety programs and offset the federal budget deficit.

Despite the dominance in the auction by the major cell providers, the FCC chairman was upbeat about the auction results.

"A bidder other than a nationwide incumbent won a license in every market," Kevin Martin said. As a result, there is the potential for a "wireless third-pipe" competitor to emerge in every market across the nation.

Broadband access is dominated by the major telecommunications and cable companies. Martin wants wireless to emerge as a third platform, creating competition.

But Ben Scott, policy director of Free Press, an advocacy group that supports greater access to communications services, said the auction failed in that regard because Verizon Communications Inc. already is a dominant provider of Internet access.

"The prospect of a genuine third pipe competitor in the wireless world is now slim to none," he said.

Until Thursday, the names of the bidders were kept anonymous in an effort to discourage collusion during the auction.

Verizon Wireless, a joint venture between Verizon Communications Inc. and British telecom giant Vodafone Group PLC, won nearly every license in the consumer-friendly "C block."

The frequencies, which encompass about one-third of the spectrum at auction, are subject to "open access" provisions pushed by Martin. That means people on the network that is built can use whatever phones or software they wish.

Google posted a bid for the C block licenses early in the auction, assuring that the open-access provision would be put in place, but the offer was not enough.

Verizon Wireless won enough of the C-block licenses to cover every state but Alaska. The company said it was very pleased with the results, which will allow it to "continue to grow our business and data revenues."

AT&T said it will have "quality spectrum available for new services covering 95 percent of the U.S. population," according to

Ralph de la Vega, president and chief executive of the company's wireless unit.

The third leading bidder was Qualcomm Inc., which pledged \$1.03 billion. Included in that total is \$472 million the company pledged toward the block designated for the creation of an emergency communications network. The bid was well under the FCC-required minimum of \$1.3 billion, so Qualcomm's winning total comes to \$558 million.

The agency agreed to separate this D block from the rest of the auction so the winners could be announced. Not including that block, winning bids totaled \$19.1 billion.

Also Thursday, Martin said he had ordered an investigation by the FCC internal watchdog into the circumstances surrounding the failure of the block to attract a winning bid.

Public interest groups asked the agency on Wednesday to investigate allegations about a meeting between Frontline Wireless LLC and its financial backers and a company called Cyren Call, created by Nextel Corp. co-founder Morgan O'Brien.

Frontline was widely expected to bid on the public safety spectrum block. But the company dropped out before the auction began after failing to meet a minimum required payment.

Cyren Call was acting as the agent for a nonprofit public safety trust that would share the network with the winning bidder.

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On the Net:

Federal Communications Commission: <http://www.fcc.gov/>

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