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October 18, 2011

Honorable Michael Thibodeau, Senate Chair
Honorable Stacey Fitts, House Chair
Energy, Utilities and Technology Committee
115 State House Station
Augusta, Maine 04333

**Re: Funding of Non-Instructional Facilities Through the Maine
Telecommunications Education Access Fund**

Dear Senator Thibodeau and Representative Fitts:

This is in response to a letter you sent to the Commission on March 22, 2011 concerning issues that came to your attention in the context of L.D. 554, An Act to Amend the Telecommunications Education Access Fund (MTEAF). You asked the Commission to report on the inclusion of Non-Instructional Facilities (NIFs) as eligible for MTEAF and the type of services funded.

By Order issued February 1, 2011, the Commission allowed the use of MTEAF to connect NIFs to the internet (see Attachment 1). The Order was not unanimous on this point.¹ The Commission interpreted "qualified school" and "qualified library" to include buildings that are "integral, immediate and approximate to the education of students or to the program of library services" (which is the FCC definition for the Federal E-Rate Program). These include superintendent offices and bus garages that support schools and libraries but are not already connected through a school or library internet connection because they are housed in a separate building. A number of schools and libraries are moving to networks that interconnect all school buildings in a district to facilitate intra-district communications and data services to make school administration more efficient (e.g., connecting school bus garages will allow schools to use bus routing software systems which provide bus drivers with accurate and efficient routes to pick up and drop off students which can reduce the length and time of bus routes and save fuel costs).

¹ Commissioner Littell dissented from this part of the Order as he would have instead waited until the Legislature acted on the question of whether funding for NIFs was specifically eligible.

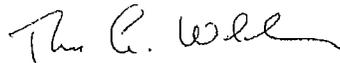
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The 2011-2012 Federal E-Rate application includes 11 NIFs from 8 districts at a cost of approximately \$21,000 to the MTEAF. There are 7 superintendent or district offices and 4 garage or transportation buildings (see Attachment 2). A few additional connections are expected in the future, likely due to changes in building configuration (e.g., a superintendent office moving out of a school into a separate building).

If you have any questions, please do not hesitate to contact us.

Sincerely,



Thomas L. Welch, Chairman

On behalf of the Chairman and

Vendean V. Vafiades, Commissioner
David Littell, Commissioner
Maine Public Utilities Commission

Attachments

cc: Energy, Utilities and Technology Committee Members
Jean Guzzetti, Legislative Analyst and Jon Clark, Esq., OPLA Deputy Director

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2010-385

February 1, 2011

NETWORKMAINE
Annual Proposal of Dept of Education and
the State Library Filed Pursuant to Chapter 285(4)
(Year 2011-2012)

ORDER

CASHMAN, Chairman; VAFIADES and LITTELL, Commissioners

I. SUMMARY

In this Order, we approve the annual plan submitted by Networkmaine on behalf of the Department of Education and the Maine State Library (DOE/MSL) for spending from the Maine Telecommunications Education Access Fund (MTEAF) for the period July 1, 2011 through June 30, 2012. We also set the amount of the 2011-2012 MTEAF assessment on telecommunications carriers at 0.3%.

II. BACKGROUND

On December 3, 2010, Networkmaine filed the Maine School and Library Network Annual Report (Report) on behalf of DOE/MSL. Included in the Report is the annual plan on how it anticipates MTEAF funds will be spent to address connectivity needs of schools and libraries for the period July 1, 2011 through June 30, 2012. Chapter 285 § 4(A) requires DOE/MSL to make this filing annually.

The Telephone Association of Maine (TAM) filed comments on the Plan on January 1, 2011 and January 13, 2011. Networkmaine filed responsive comments on January 11, 2011.

III. DESCRIPTION OF PLAN

Networkmaine requests approval of funding of \$3,850,400, essentially the same amount approved in 2009-2010 and 2010-2011. Networkmaine proposes a number of changes in how the funding is allocated. First, it asks that MTEAF funding be permitted for transport services to non-instructional facilities (NIFs), as is currently permitted by the Federal E-Rate program. NIFs are locations that support schools and libraries, such as administrative buildings, school bus garages, cafeteria offices, bookmobile garages and library technology centers. Networkmaine asks that the Commission use the same rationale as the Federal Communications Commission in recognizing that school activities that are integral, immediate and approximate to the education of students or to the provision of library services qualify as educational purposes.

They also propose shifts in other categories in the budget (e.g., circuit rider costs included under Operational Services) and some expenses are eliminated (e.g., AEV; E-Rate

Consultant). Overall, Networkmaine expects the spending to be virtually identical to what was approved last year with expected the Federal E-Rate reimbursement to be \$5.8 million.

The Report also includes an extensive discussion of how DOE/MSL is meeting the requirement in 35-A M.R.S.A. § 7104-B(5) that 25% of the annual budget be devoted to innovative and technologically advanced projects. Examples provided include how high speed connections have allowed innovative programs and projects such as the Maine EPSCoR Sustainability Solutions Initiative (See Report at 13-14), Cloud Computing –SaaS (Report at 14-15) video-based distance learning (Report at 15-16) and advanced library services such as One Search, downloadable books and courses on-line (Report at 16-17). The Report also describes the advanced technology infrastructure that is in place and how expansion of broadband has been enabled with the use of MTEAF funds (Report at 17-18).

IV. TAM'S COMMENTS

TAM objects to funding for NIFs as being beyond the enumerated and exclusive list of items permitted for funding under the statute. Administrative buildings, school bus barns and cafeteria offices are not on the list. TAM also asks that additional information be requested so the Commission can determine how much Transport Services expenses are increasing due to the addition of NIFs. TAM also questioned whether technical services includes expenses for MaineRen and the justification for a \$210,000 increase in this category.

As it did last year, TAM questions the use of MTEAF funds for operating services. TAM also questions whether funds are being expended to assist schools and libraries in filing for Federal E-Rate applications.

Networkmaine responded that it does not expect NIF expenses to increase costs by more than 10% (e.g., \$1,699,000 to \$1,869,000) but the actual amount is unknown. The same amount is included for MaineRen as last year's budget (\$69,000) which is the incremental cost of supporting MSLN across MaineRen. Leveraging Maine Ren for long haul transport has allowed Networkmaine to negotiate lower transport cost from various providers. Networkmaine further states that operational costs have always been included in the amounts paid for by MTEAF and no funds are being requested to help schools and libraries with E-Rate filings.

V. DISCUSSION AND DECISION

We are pleased to see that the DOE/MSL has been able to provide a high level of service and connectivity to Maine's schools and libraries without increasing the MTEAF budget over the past two years and as projected for FY 2012. We agree that expanding connectivity to NIFs is consistent with our state statute. The enumerated items for which MTEAF may be used include internet access. 35.A M.R.S.A. § 7104-B(4)(A). NIFs, as described by Networkmaine, are adjuncts to schools and libraries and support the educational mission of these institutions.¹ We do request that Networkmaine report back

¹ Commissioner Littell dissents from this part of the Order and would instead wait until the Legislature acts on the question of whether funding for NIFs is specifically eligible.

E-rate Funding Requests for NIFs 2011-2012

| Site ID | Entry Number | Name of Site | School District | Provider | Bandwidth |
|---------|--------------|---|--|-----------|-----------|
| 2806 | 16023401 | ADMINISTRATIVE OFFICE | MAINE SCHOOL ADMINISTRATIVE DISTRICT #75 | Fairpoint | 100 |
| 3027 | 16062567 | LISBON SCHOOL DEPARTMENT CENTRAL OFFICE | LISBON SCHOOL DEPT | Fairpoint | 10 |
| 2104 | 16057290 | MSAD #52 DISTRICT OFFICE | SCHOOL ADMIN DISTRICT 52 | Fairpoint | 10 |
| 2967 | 16037429 | MSAD 15 TRANSPORTATION BUILDING | SCHOOL ADMIN DISTRICT 15 | Fairpoint | 10 |
| 2966 | 16037430 | MSAD 15 DISTRICT OFFICE | SCHOOL ADMIN DISTRICT 15 | Fairpoint | 10 |
| 1366 | 16062651 | RSU 60 CENTRAL OFFICE | SCHOOL ADMIN DISTRICT 60 | Fairpoint | 10 |
| 3086 | 16063013 | SUPERINTENDENT OFFICE AOS93 | AOS 93 | Fairpoint | 10 |
| 2846 | 16023403 | TRANSPORTATION GARAGE | MAINE SCHOOL ADMINISTRATIVE DISTRICT #75 | Fairpoint | 10 |
| 3088 | 16061074 | TRANSPORTATION GARAGE RSU19 | RSU 19 | TWC | 100 |
| 3087 | 16063037 | CENTRAL OFFICE RSU19 | RSU 19 | TWC | 100 |
| 3146 | 16043674 | MSAD 49 MAINTENANCE AND TRANSPORTATION CENTER | RSU49 | TWC | 100 |

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