

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
PUBLIC UTILITIES COMMISSION  
242 STATE STREET  
18 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0018

STEPHEN L. DIAMOND  
SHARON M. REISHUS  
COMMISSIONERS

January 31, 2006

Honorable Philip L. Bartlett II, Senate Chair  
Honorable Lawrence Bliss, House Chair  
Joint Standing Committee on Utilities and Energy  
115 State House Station  
August, Maine 04333

Re: Report on Public-Interest Pay Phones

Dear Senator Bartlett and Representative Bliss:

In 2005, legislation was enacted requiring the Commission to establish by rule "a process for reviewing and approving requests for public-interest pay phones" and authorizing the Commission to require annual contributions up to \$50,000 to the state universal service fund to provide funding for public-interest pay phones. Subsection 7508(4) requires the Commission to file an annual report with the Utilities and Energy Committee detailing Commission activities relating to § 7508.

Enclosed is the above-mentioned report.

The Commission looks forward to working with the Committee on this subject when the Committee considers the content of this report.

Sincerely,

Public Utilities Commission  
Kurt Adams, Chairman  
Stephen L. Diamond, Commissioner  
Sharon M. Reishus, Commissioner

Attachments

cc: Utilities and Energy Committee  
Lucia Nixon, Legislative Analyst



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**2005 Annual Report by the Public Utilities Commission  
To the Utilities and Energy Committee  
Regarding Public-Interest Pay Phones  
Pursuant 35-A M.R.S.A. § 7508**

**I. BACKGROUND**

In 2005, the Maine Legislature enacted legislation, codified at 35-A M.R.S.A. §§ 7104(6) and 7508, requiring the Commission to establish by rule “a process for reviewing and approving requests for public-interest pay phones” and authorizing the Commission to require annual contributions of up to \$50,000 to the state universal service fund, to provide the funding for Public-Interest Pay (PIP) phones. Section 7508 sets forth two general criteria for the establishment of the PIP phones:

1. A proposed PIP phone must fulfill a public welfare, health or safety policy objective, and
2. A traditional pay phone would not otherwise remain or be placed at a proposed PIP phone location by the operation of the competitive marketplace.

Subsection 7508(4) requires the Commission to file an annual report with the Utilities and Energy Committee detailing the Commission’s activities relating to § 7508. Specifically, the report must include the number of petitions for PIP phones the Commission has received, the number of PIP phones the Commission has approved and the amount of available funds expended.

The purpose of this report is to respond to the requirements in § 7508.

**II. COMMISSION ACTIVITY**

On September 13, 2005, the Commission opened an inquiry (Docket No. 2005-519) in order to solicit suggestions from interested parties regarding the formulation of a rule governing PIP phones. Notice of the inquiry was sent to all parties in Docket No. 2003-420, which involved PIPs, and to other interested persons. Verizon Maine, the Telephone Association of Maine, the Public Advocate’s Office, Maine Equal Justice Project, the Town of Durham, and Representative Herbert Adams filed written comments in the inquiry.

The Commission subsequently put out for comment a proposed PIP rule, and in drafting that proposed rule, the Commission considered the comments filed in the inquiry, along with information gathered over the course of several previous Commission proceedings, an independent investigation of retail telephone equipment prices, and information generally available regarding PIP programs in other states. Copies of the proposed rule and the Notice of Rulemaking dated January 9, 2006 are

attached to this report. The public hearing on the proposed rule will take place on February 9, 2006.

### **III. REPORTING REQUIREMENTS**

As noted above, § 7508 specifically requires the Commission to include in the annual report the number of petitions for PIP phones the Commission has received, the number of PIP phones the Commission has approved and the amount of available funds expended. Because the PIP rule is not yet in place, the Commission has received no petitions for PIPs and has approved no PIPs. Nor has the Commission expended any funds on PIP installations.

NOTICE OF RULEMAKING

PUBLIC UTILITIES COMMISSION  
Public Interest Payphone Program  
(Chapter 352)

Docket No. 2005-771

ADAMS, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

By way of this Notice of Rulemaking, the Maine Public Utilities Commission (Commission) initiates a rulemaking to establish a process for reviewing and approving requests for Public Interest Payphones (PIPs) as required by 35-A M.R.S.A. § 7104(6) and 35-A M.R.S.A. § 7508.

**II. BACKGROUND**

In 2005, the Maine Legislature enacted legislation, codified at 35-A M.R.S.A. § 7508, requiring the Commission to establish by rule “a process for reviewing and approving requests for public-interest pay phones.”<sup>1</sup> The statute also authorizes the Commission to require annual contributions, up to \$50,000, to a state universal service fund to provide the means of paying for public interest payphones. *Id.* at § 7104(6).

The statute sets forth two general criteria for the establishment of the public interest payphones<sup>2</sup>:

1. A proposed public interest payphone must fulfill a public welfare, health or safety policy objective.
2. A traditional payphone would not otherwise remain or be placed at a proposed public interest payphone location by the operation of the competitive marketplace.

5-A M.R.S.A. § 7508(1).

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<sup>1</sup> The statute provides that the rule is a routine technical rule pursuant to Title 5, Chapter 375 subchapter 2-A.

<sup>2</sup> Consistent with the Commission’s current practices, we refer in this Notice to “public interest payphones.”

**B. Commission Inquiries**

On September 13, 2005, the Commission opened an inquiry (Docket No. 2005-519) to obtain comments to help in the development of a rule governing PIPs. The Commission sent notice of the inquiry to all parties in Docket No. 2003-420, which involved PIPs, and to other interested persons. Verizon Maine, the Telephone Association of Maine (TAM), the Public Advocate's Office (OPA), Maine Equal Justice Project, the Town of Durham, and Representative Herbert Adams filed written comments. The comments were helpful in developing the rule, although we did not receive responses to our request for information regarding the incremental cost to telephone utilities of implementing a PIP program.

**C. Proposed Rule**

In addition to considering the information received during the course of its inquiry, the Commission independently investigated retail telephone equipment prices. It also considered the cost evidence gathered over the course of several previous Commission proceedings, including our TELRIC dockets and Docket No. 92-130. Finally, we considered generally available information regarding PIP programs in other states.

The proposals described in this Notice and incorporated into the proposed rule represent our best effort to develop for comment a rational and workable rule that advances the purpose of the PIP legislation. We encourage interested persons to comment and/or provide information regarding all issues raised by the proposed rule.

**III. DISCUSSION OF RULE PROVISIONS****A. Section 1 - Purpose**

Section 1 of the proposed rule describes the purpose of the rule as establishing the procedures for requesting a PIP, the criteria for approving and ranking PIP applications, and the means for compensating incumbent local telephone companies for their expenses in implementing the program.

**B. Section 2 - Definitions**

Section 2 of the proposed rule contains definitions of terms used in the proposed rule. The definitions are self-explanatory.

**C. Section 3 - PIP Requirements**

Section 3(A)(1) of the proposed rule specifies that a PIP instrument (i.e., the apparatus, inside wire, and station equipment associated with a PIP, as defined in Section 2(H)) that is located inside a building shall be a standard dial phone with tone dialing that is capable of making and receiving telephone calls. To conserve the limited

financial resources of the state universal service fund dedicated to the PIP program, we determined that a ratepayer-funded<sup>3</sup> PIP instrument should be both inexpensive and reliable. Based upon our review of the items on display at several Augusta area retailers, we observed that the cost of an inexpensive but reliable instrument varies from \$7.95 to \$29.95 and can readily be had for less than \$15.00. The proposed rule does not preclude installation of a more costly PIP or PIP enclosure, but it does require that the sponsor assume any excess costs.

Section 3(A)(2) of the proposed rule specifies that a PIP that is installed at an outside location should be a metal-enclosed instrument with an armored head set cord to protect the equipment from exposure to the elements and from vandalism. Based upon our review of manufacturers of such equipment, we observed that the cost of these varies from \$25-\$150 and can readily be had for less than \$100.00. We considered and rejected as too expensive, a requirement that PIPs located outside include an enclosure to protect the *caller* from the elements.

To fulfill all of the health and safety benefits of the program, a PIP should permit both outgoing and incoming calls. Nevertheless, we recognize that certain entities applying for a PIP may prefer that incoming calls not be permitted so as to discourage the PIP from becoming a substitute for an individual's personal telephone service. In our view, accommodating the preferences of such applicants will encourage the deployment of a greater number of PIPs. Accordingly, Section 3(A)(3) of the proposed rule permits an applicant to specify that the PIP need not receive incoming calls.

Section 3(A)(4) of the proposed rule specifies that PIPs shall be coinless. We examined coin-operated PIPs and found them to cost ten to fifty times more than coinless PIPs. The vast majority of the operating expenses of a coin-operated PIP are associated with collecting coins and servicing the coin collection mechanism and not with the cost of the actual calls. Coin-operated PIPs are more susceptible to vandalism and are inconvenient to use in emergency situations that do not rise to the level necessitating a "free" 911 call. For all of these reasons, and to preserve the ratepayer supported state universal service fund dedicated to the PIP program by minimizing the administrative costs associated with coin operated phones, the proposed rule requires coinless PIPs.

Section 3(B)(1) of the proposed rule specifies that PIPs be capable of making all types of calls typically made from telephones, and that they be capable of accessing all interexchange carriers operating in the location of the PIP. For calls that incur a charge, this section also mandates that the PIP accommodate generally available billing or charging methods such as prepaid calling cards, credit calls, collect calls, or other billing methods.

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<sup>3</sup> The PIP would be funded by the universal service fund, which is collected through an assessment on certain telecommunication companies. However, it is reasonable to assume that this cost is ultimately collected from the companies' ratepayers.

Section 3(B)(2) of the proposed rule specifies that direct dialed calls to telephones within the state, calls to 911 and the other n11 exchanges, and toll free calls that use the 800 exchange and similar exchanges available for widespread toll-free calls should be free to the caller.<sup>4</sup> As discussed above, the cost of making these calls is de minimis and would be exceeded by the cost of processing either coins or operator assistance. In addition, these are the calls that are most important to attaining the public health, welfare and safety goals of the PIP program.<sup>5</sup>

Section 3(B)(2) of the proposed rule specifies that all other calls made from the PIP (i.e., interstate calls) would incur a charge. As discussed earlier, Section 3(B)(1) ensures that the PIP will allow a caller to make such calls using generally available payment methods.

Section 3(B)(3) specifies that a sign be placed on the PIP indicating that callers must limit their calls to five minutes if other callers are waiting for the PIP. In part, this limitation responds to the concern that local citizens would remove their own telephone and use the PIP for all personal calls. Recognizing that this limitation relies upon voluntary compliance we invite interested persons to comment on the usefulness of such a limitation.

We are not unmindful that the availability of ratepayer-supported PIPs that allow free calls throughout the State might lead to two rather undesirable outcomes. First, some citizens could disconnect their telephones and use the PIP as a private phone, creating a revenue loss for telephone service providers and a potential bottleneck for legitimate users of the PIPs. Second, we wonder if entities that currently fund payphones on their premises might remove those phones and replace them with a ratepayer-funded PIP. We invite interested persons to comment on whether these should be concerns and, if so, whether and how best to address them.

Section 3(C)(1) of the proposed rule requires that incumbent local exchange carriers provide approved PIPs within their service area. While we could, alternatively, require RFPs or some other mechanism to select PIP providers, the administrative expenses of such procedures would likely exceed the nominal costs to ILECs of providing PIPs.

Section 3(C)(2) of the proposed rule provides that the successful applicant for a PIP will be responsible for its upkeep and maintenance. We have proposed this requirement in order to keep ratepayer-funded costs down and to establish local responsibility for each PIP. In addition, local residents near the PIP may be more likely to take care of it and to guard it from vandalism if either they or someone they know is responsible for its maintenance.

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<sup>4</sup> Calls made to the few telephones that are within the State but not within wire centers associated with the Maine LATA would not be toll-free.

<sup>5</sup> Many social service entities have 800-style numbers.



D. Section 4 - Compensation

It is our view that out-of-pocket costs of providing the PIPs will be minimal and will not generally impact the earnings of ILECs providing the PIPs. We intend that ILECs should be compensated for all costs that impact their earnings.

Section 4(A)(1) of the proposed rule specifies that ILECs providing PIPs shall be compensated their out-of-pocket costs. As defined by the rule, out-of-pocket costs include the cost of the PIP instrument itself, the time and materials necessary to install it, the incremental cost of providing the PIP access line, and the incremental cost of the switching and transport facilities necessary to complete calls. The rule allows compensation only for those costs which would not be incurred but for the existence of the PIP and, thus, tariffed rates are not applicable. We adopt this approach in order to encourage the broadest possible deployment of PIPs within the funding constraints of the program.

In approving compensation, the Commission will examine whether the particular PIP instrument is relatively inexpensive yet reliable. Time and material to install the PIP will be compensated, at a reasonable incremental rate that does not include profit or common overhead. To simplify the compensation process and to avoid time-consuming analysis, Section 4(A)(2) establishes a fixed compensation amount of \$100 for installation time and materials. We urge interested persons to comment on whether this is a reasonable average out-of-pocket installation cost. We expect that the cost of providing the access line, switching, and transportation will result in de minimus out-of-pocket costs in virtually all situations, and therefore do not anticipate that ILECs will request significant funding levels for providing these services.

Section 4(B) of the proposed rule provides that ILECs will be compensated from the Maine Universal Service Fund, as set forth in the law.

E. Section 5 – Procedures

Section 5 of the proposed rule sets forth the procedural steps associated with the operation of the PIP program.

We considered whether we should approve applications based on a first-come, first-served basis or based on pre-established, ranked criteria. As funds for the PIP program are limited, it is likely that in the early years of the program more PIPs will be requested than the funds can support. Therefore, funds should first be used to deploy those PIPs that best advance the purposes of the program. In our view, the ranking procedures of Section 5 will best accomplish this goal.

We recognize that a ranking approach requires a significant level of subjective judgment in areas not typically within the purview of the Commission. With

this in mind, we considered involving in the approval process other agencies or entities with greater experience in the social service factors relevant to the PIP program. However, we concluded that the additional administrative cost and effort to coordinate multiple agencies would unnecessarily delay implementation of the PIP program. If ranking proves to be difficult for the Commission alone, the program can be revised in future years. We encourage interested persons to comment on all aspects of the approval process.

Section 5(A) establishes the contents of the form by which applicants will request PIPs. Section 5(B) establishes an annual application period during which all persons, businesses, or agencies desiring a PIP must submit an application to the Commission. Section 5(C) specifies that the Commission will rank applications and will approve each, in rank order, until all available funds are expended. This approach ensures consistent consideration of all applications. Section 5(D) authorizes a second application period should funds remain after the initial annual application process is complete.

The potential challenge of staying within the \$50,000 annual funding budget during the course of the annual application process is of some concern to us. If precise costs for PIPs are unknown during the application process, we will be unable to know for certain how many, and which, PIPs to authorize. As we see it, there are two alternative solutions to this dilemma. We could require each applicant to submit with its application a firm price "quote" obtained from the appropriate ILEC. Alternatively, we could assume an average out-of-pocket cost for each requested PIP and approve slightly fewer PIPs than the full \$50,000 would support if all were of the average price. The disadvantage of the first approach is that it would be time-consuming for both the applicant and the ILEC and could thereby discourage applications. The disadvantage of the second approach is that the true cost of a proposed PIP could no longer be a criterion in the ranking and selection process. Thus, if we adopted the second approach, the price criterion would be removed from the final rule. We urge interested persons to comment on which of these two approaches best addresses the budgeting issue or, alternatively, to propose another plausible solution.

Sections 5(E) and 5(F) require that the Commission notify applicants as to whether their request was granted, that successful applicants make arrangements with the appropriate ILEC for the installation of the PIP, that the ILEC install the PIP, and that the ILEC petition the Commission for compensation. To ensure that each step of the process is completed expeditiously, Section 5 also establishes appropriate timeframes.

F. Section 6 – PIP Selection

Section 6(A) of the proposed rule sets forth ranking criteria that the Commission will use to approve PIPs. These criteria are designed to permit the Commission to spend the \$50,000 allocated to the PIP program in the most cost effective manner while fulfilling the legislative mandates of 35-A M.R.S.A. §§ 7104(6) and 7508. The proposed rule lists the criteria in descending order of importance. In

particular, the first criterion, health and safety considerations, accomplishes the primary goal of the law, and the second criterion, the cost of providing the requested PIP, allows the Commission to most efficiently use ratepayer-supported state universal service funds. The remaining criteria permit the Commission to consider other factors that advance the goals of the PIP program. For instance, we include criteria that would give relative preference to a proposed PIP to be located in a low-income area. This approach encourages PIP deployment in areas in which persons may have limited access to home phones.

We urge interested persons to comment on whether these are the appropriate criteria to use in ranking and approving PIP applications. In addition, as discussed earlier, these criteria are inherently subjective and we invite interested persons to comment on whether more objective ranking criteria could or should be used.

Section 6(B) establishes entities whose applications would be ranked more highly than other applications. The proposed rule would allow the Commission to retain the flexibility to consider the ranking criteria set forth in Section 6(A), but also to consider the specific entities listed in Section 6(B) as being desirable locations for PIPs. This approach streamlines the process and lowers administrative costs. We note that, after the early years of the program, all entities of the type listed in Section 6(B) that desire a PIP will have received one, and annual funding will become available for other types of entities.

The locations listed in Section 6(B) are either remote, serve a public purpose, or are in areas in which a phone is likely to be needed by low-income persons. For example, passengers using ferry, bus, highway, and airline service may find themselves alone and in need of a phone to obtain transportation; persons using homeless shelters, food pantries, domestic violence shelters, and unemployment offices may be unable to afford a phone or may not have a permanent residence with a phone; and the other entities on the list are widely used by members of the general public who may find it necessary to obtain a ride from a public location but be without the means to do so. A payphone may already be available at some of these locations. When this is true, a PIP will not be required. We urge interested persons to comment on whether the proposed locations are those where PIPs are most needed.

We considered *requiring* that all the locations in Section 6(B) install PIPs. This requirement would ensure that payphones were available to all Mainers, including those of modest means. However, we concluded that some of these entities might not want a PIP on the premise and that our rule should not impose an unwanted mandate. Moreover, we are not at all convinced that the statute gives us the authority to require the installation of a PIP without the permission of the owner of the property on which it is to be placed. We urge interested persons to comment on whether the proposed approach best accomplishes the social policy contemplated by the law.

G. Section 7 - Waiver or Exemption

Section 7 of the proposed rule is a provision that occurs in most of the Commission's rules, and allows the Commission to waive provisions of the rule when appropriate.

**IV. PROCEDURES FOR THIS RULEMAKING**

This rulemaking will be conducted according to the procedures set forth in 5 M.R.S.A. §§ 8051-8058. A public hearing on this matter is scheduled for 9:30 a.m., February 9, 2006, at the Public Utilities Commission, 242 State Street, Augusta, Maine. Pre-hearing written comments may be filed no later than February 3, 2006. Comments may also be filed after the hearing, no later than February 20, 2006. Comments should be submitted electronically by going to the Commission's web site ([www.state.me.us/mpuc](http://www.state.me.us/mpuc)) and following the electronic filing instructions.<sup>6</sup> All comments will appear on the Virtual Case File section of the web site. Filings should refer to Docket No. 2005-771.

In accordance with 5 M.R.S.A. § 8057-A (1), the fiscal impact of the proposed rule is expected to be minimal. The Commission invites all interested persons to comment on the fiscal impact of this proposed rule.

The Administrative Director shall send copies of this Order and the attached Rule to:

1. All persons who received or responded to the Notice of Inquiry, Docket No. 2005-519;
2. Entities listed in Section 6(B) of the proposed rule, to the extent the Commission is able to identify them;
3. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and
4. Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine 04333-0015 (20 copies).

Accordingly, it is

O R D E R E D

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<sup>6</sup> Persons without electronic access may mail comments to Administrative Director, Maine Public Utilities Commissions, 242 State Street, State House Station 18, Augusta, ME 04333.

That the Administrative Director send copies of this Notice of Rulemaking and attached proposed Rule to all persons listed above.

Dated at Augusta, Maine, this 9th day of January, 2006.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Acting Administrative Director

COMMISSIONERS VOTING FOR:      Adams  
   Diamond  
   Reishus

65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 352 – Public Interest Payphone Program

SUMMARY: This Chapter defines the Public Interest Payphone program in Maine.

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## § 1 PURPOSE

The purpose of this Chapter is to implement 35-A M.R.S.A. §§7104(6) and 7508 by establishing the criteria the Commission will use to approve and rank requests for Public Interest Payphones. It also defines the requirements that must be met for a telephone to be considered a Public Interest Payphone, the procedures for applicants to request a Public Interest Payphone, and the means by which independent local exchange carriers will be compensated for their costs associated with Public Interest Payphones.

## § 2 DEFINITIONS

For the purposes of this Chapter, the following terms have the following meanings:

**A. 800-style call.** “800-style call” means a telephone call to a toll-free NPA (Numbering Plan Area) code such as 800, 877, and other numbers established as widespread toll-free numbers.

**B. n11 call.** “n11 call” means a telephone call to a 211, 311, 411, 511, 611, 711, 811, or 911 number or successor numbers used for similar purposes.

**C. Applicant.** “Applicant” means a person, business, organization, agency, or any other entity that submits an application to obtain a Public Interest Payphone pursuant to this Chapter.

**D. Commission.** “Commission” means the Maine Public Utilities Commission.

**E. ILEC.** “ILEC” means an incumbent local exchange carrier.

**F. Out-of-pocket costs.** “Out-of-pocket costs” means the incremental costs of providing a PIP.

**G. Public Interest Payphone (PIP).** “Public Interest Payphone” means a publicly available telephone installed and funded pursuant to authority granted under 35-A M.R.S.A. §§ 7104(6) and 7508.

**H. PIP instrument.** “PIP instrument” means the apparatus, inside wire, and station equipment associated with a PIP.

**I. PIP access line.** “PIP access line” means the loop, switching and other equipment necessary to provide a connection from the PIP apparatus to the public switched network.

**J. PIP Free Calling Area.** “PIP Free Calling Area” means wire centers within the Maine LATA (local access and transport area).

**§ 3 PIP REQUIREMENTS**

A PIP must conform to the following requirements:

**A. Type of Telephone.**

1. A PIP instrument located inside a building shall be a standard tone dial telephone (wall or desk type) that is capable of being used to make or receive telephone calls, unless the applicant requests and provides additional funding for a PIP that provides more extensive features.

2. A PIP instrument located outside a building shall be a metal enclosed telephone instrument with an armored head set cord that is capable of being used to make or receive telephone calls, unless the applicant requests and provides additional funding for a PIP that provides more extensive features.

3. Notwithstanding Subsections 3(A)(1) and 3(A)(2), a PIP shall be rendered incapable of receiving telephone calls if the applicant makes such a request of the ILEC that installs the PIP.

4. A PIP instrument shall be coinless.

**B. Calling Capabilities.**

1. A PIP shall be capable of being used to make direct dialed local, intralata interexchange, n11, 800-style, interstate credit card, and collect (reverse charge) interexchange telephone calls using all available interstate interexchange carriers.

2. The caller shall not be charged for calls to telephones within the PIP Free Calling Area, n11 calls, and 800-style calls. Any other calls must be made using prepaid calling cards, credit or calling cards, as collect calls, or through other billing methods.

3. A sign shall be placed on each PIP stating that calls made from the PIP to telephones within the PIP Free Calling Area and 800-style calls shall be limited to five minutes if another person is waiting to use the PIP.

**C. Installation and Maintenance.**

1. The ILEC that offers service in the location where the PIP is located shall provide and install the PIP.



2. The applicant who requested the PIP shall maintain the PIP in working order by arranging for and funding upkeep and routine maintenance of the PIP.

#### § 4 COMPENSATION

##### A. Compensated Costs.

1. The ILEC providing the PIP shall be compensated pursuant to Section 4(B) for its out-of-pocket costs of the PIP. Compensated out-of-pocket costs shall include the costs of the PIP instrument, providing the PIP access line, and switching and transport necessary to complete calls as required by Section 3. Compensated out-of-pocket costs shall not include the costs of common equipment, overheads, or labor that do not materially change as a result of installing and operating the PIP. Time and materials for installing the PIP shall be reimbursed pursuant to Section 4(A)(2).

2. The ILEC providing the PIP shall be compensated in the amount of \$100.00 for the time and materials necessary to install the PIP.

3. The ILEC providing the PIP may petition the Commission for additional compensation not provided for in this section.

**B. Source of Compensation.** Compensation allowed by Subsection 4(A) shall be made from the state universal service fund established pursuant to 35-A M.R.S.A. § 7104(3).

#### § 5 APPLICATION PROCEDURES

**A. PIP Application Form.** The Commission shall establish and make available on its web page a standard PIP application form. The form shall include:

1. Name or names of applicant;
2. Location of the requested PIP;
3. Whether the PIP will be inside or outside;
4. A narrative stating the reasons why a PIP is desirable at the requested location;
5. All information necessary for the Commission to evaluate and rank the application pursuant to Section 6;
6. Certification that the applicant will maintain the PIP in normal operating condition pursuant to Section 3(C)(2); and

7. Any other information the Commission determines is necessary to administer the PIP program.

**B. Annual Application Period.** The Commission shall establish an annual application period of one month each year during which applicants must submit to the Commission all requests for new PIPs for the following year.

**C. Ranking and Approval.** No later than two months after the close of the annual application period, the Commission shall approve and rank all submitted applications using the criteria established in Section 6. The applications will be approved in rank order until all of the funding allocated by 35-A M.R.S.A. § 7104(6), and any unexpended amounts previously allocated are fully expended.

**D. Additional Application Period.** If funds remain after all the approved applications are funded, the Commission shall establish an additional application period as described in Subsections 5(B) and 5(C), to commence six months after the close of the annual application period.

**E. PIP Installation.** The Commission shall notify each applicant of the approval or rejection of the applicant's requested PIP. Each successful applicant shall notify its ILEC to arrange installation of the PIP. The ILEC shall install the PIP no later than 60 days after being so notified by the successful PIP applicant.

**F. Compensation.** An ILEC shall petition the Commission in writing for compensation of its out-of-pocket costs pursuant to Section 4. The Commission shall approve each request for compensation and shall arrange for compensation to occur no later than 3 months following approval.

**G. Discontinuing a PIP.** The Commission may, at its own discretion or upon petition of an interested person, order the removal of a PIP.

## § 6 PIP SELECTION

**A. Ranking Criteria.** The Commission shall consider the following criteria when approving and ranking PIP requests.

1. Health and safety considerations;
2. Cost of providing the requested PIP service;
3. Proximity of the area to other public phones;
4. Availability of wireless service in the area;
5. Residential telephone service penetration in the area;

6. Average income of the area;
7. Financial ability of the applicant to provide public telephone service; and
8. Whether there exist other means of obtaining public telephone service.

**B. Priority Ranking.** The Commission shall give priority ranking to applications submitted by entities listed in this section, unless the Commission determines otherwise based on criteria listed in Subsection 4(A).

1. Bus stations;
2. Airports serving commercial passenger airlines;
3. Rest areas on interstates and federal highways;
4. Ferry terminals;
5. Homeless shelters;
6. Food pantries;
7. Domestic violence shelters;
8. Unemployment offices;
9. Motor vehicle offices;
10. Courthouses;
11. Lobby of any post office where wireless telephone service is unreliable or unavailable;
12. Prison lobbies for visitors;
13. Hospitals; and
14. Medical clinics serving low-income clients.

## § 7 WAIVER OR EXEMPTION

Upon the request of any person subject to this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Chapter that is not

required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director of Finance, or the presiding officer assigned to a proceeding related to this Chapter may grant the waiver.

**BASIS STATEMENT:** The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule, Docket No. 2005-771 issued on \_\_\_\_\_. Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

**AUTHORITY:** 35-A M.R.S.A. §§ 104, 111, 7104(6) and 7508.

**EFFECTIVE DATE:** This rule was approved as to form and legality by the Attorney General on \_\_\_\_\_. It was filed with the Secretary of State on \_\_\_\_\_ and will be effective on \_\_\_\_\_.