

BROADBAND STRATEGY COUNCIL

Meeting Notes – August 3, 2009

I. Introductions

Members: Sen. Larry Bliss (co-chair), Rep. Cynthia Dill (co-chair),
Rep. Chris Rector, Phil Lindley, Jeff Mao, Wayne Gallant,
Commissioner Vendean Vafiades, Jeffrey Letourneau,
Cathy Renault (for Commissioner John Richardson)

Staff: Kelly Arata (ConnectME Authority)

II. Recap of Meeting of July 24, 2009

Rep. Cynthia Dill provided a brief recap of the Broadband Strategy Council's first meeting as a result of the enactment of Resolve 2009, c. 108, Resolve, Directing the ConnectME Authority to Create the Broadband Strategy Council, which had an effective date of June 9, 2009. The purpose of this Council is to:

Advise the ConnectME Authority on all matters pertaining to broadband opportunities available under the American Recovery and Reinvestment Act of 2009, as well as advise the University of Maine System with respect to matters pertaining to the lease or sale of excess broadband capacity as a result of the conversion of the education broadband spectrum." (R. 2009, c. 108).

Some of the Broadband Strategy Council (BBSC) members provided the full Council with oral reports from their various perspectives, i.e. Commissioner Richardson – tribes interests; Phil Lindley – mapping efforts; Jeff Letourneau, University of Maine – three-ring binder project; Jeff Mao, MDOE for MSLN, described the changes to the operation of the MSLN to better serve schools and libraries; Wayne Gallant, OIT, described how the state accesses technology services.

Rep. Dill believes that the BBSC should identify applicants who are interested in this process. The BBSC will then decide what to do in order to get as much money as possible into Maine to expand broadband opportunities. It would be helpful if the BBSC could determine minimum requirements. The BBSC will serve as a resource to support applicants.

III. BBSC Outreach to Stakeholders

Senator Larry Bliss provided an update on communications with Maine's tribes. In, addition, to the ARRA funds, there is a separate funding source also available to the tribes. He had a conference call with the Passamaquoddy and the Penobscot tribes to discuss their interest in applying for ARRA funds.

Phil Lindley, Executive Director of the ConnectME Authority (Authority), stated that the Authority received more applications for the BBSC to review. Mr. Lindley had provided notice via email and on the ConnectME Authority website, as follows:

Invitation to all Telecommunications Companies and Broadband Service Providers:

All eligible applicants for Broadband Technology Opportunities Program ("BTOP") and/or Broadband Initiatives Program ("BIP") grants pursuant to the American Recovery and Reinvestment Act of 2009 are invited to submit substantially completed grant applications to the Maine Broadband Strategy Council ("BBSC") for review, consideration and possible endorsement.

All those seeking BBSC consideration in conjunction with the NOFA proposal deadline of August 14, 2009 for December 2009 awards must submit draft BTOP/BIP applications to the BBSC in advance of the next scheduled meeting on August 3, 2009.

A business plan or project abstract will be considered as a less desirable substitute.

The BBSC hopes to endorse all projects that are complementary to and consistent with the State of Maine's goal of a secure and reliable telecommunications network that provides broadband access to unserved and underserved populations and community anchor institutions, fosters economic development and enhances the delivery of goods and services.

Rep. Dill stated that there are at least six applications for the BBSC's consideration – Chebeague Net, Three-Ring Binder Project, Maine Library Learning Network, Fairpoint Communications, Axiom Technologies/Washington County, and possible tribal projects.

Some of the important points expressed that the BBSC should consider prior to making its recommendation to the ConnectME Authority:

- Public-private partnerships should be fostered.
- Additional information would be helpful. The BBSC should receive information on any overlap among applications, what current systems are being relied upon and if there is any competition.
- All completed applications should be before the BBSC prior to making a recommendation to the ConnectME Authority.
- The BBSC should review how a project serves the community and public institutions.
- The BBSC should not put more burdens on the companies than necessary.

In addition, the Council's duties should be outlined. The BBSC duties are cited below.

Sec. 5. Council duties. Resolved: That the council shall:

1. Identify and examine the broadband opportunities contained in the American Recovery and Reinvestment Act of 2009;
 2. Encourage a statewide strategic approach to broadband deployment that is efficient, coordinated and consistent with other long-term goals and with the Public Utilities Commission's prior determinations regarding broadband deployment;
 3. Make recommendations to the ConnectME Authority for a strategic broadband infrastructure plan;
 4. Make recommendations to the University of Maine System regarding the lease or sale of excess broadband capacity in the education broadband spectrum;
 5. Foster public-private cooperation and co-investment in broadband deployment;
 6. Promote fair and open competition in the delivery of broadband service; and
 7. Invite and consult with public and private sector stakeholders to identify needs and opportunities for expanding broadband access; and be it further
- (R. 2009, c. 108)

IV. Presentations

Fairpoint Communications

Severin Beliveau, representing Fairpoint Communications wanted to discuss the broader policy issue. Fairpoint is concerned about competing with the University of Maine in completing a system as they may be receiving a subsidy from the state. This is not the time or place to support more projects that compete with the private sector as it is redundant and overlapping.

Rep. Dill thought that the issue had been decided at the federal level and finds Fairpoint's argument difficult to understand. Mr. Beliveau stated that the Council has to decide which proposals should be funded. Rep. Dill stated that the Council's role is to make a recommendation to the ConnectME Authority so that Maine makes the biggest return. Mr. Beliveau fully agrees and believes that Fairpoint Communications is by fair the best choice. In addition, Fairpoint believes that the University of Maine project would be taking customers from

Fairpoint at a time when, in his opinion, the University has enough problems to deal with.

Tony Buxton, also representing Fairpoint Communications gave an overview as to why Fairpoint should be chosen to receive funds. Fairpoint believes that it is recommending the most efficient way to expand broadband as shown in its PowerPoint Presentation. As a result of the merger agreement, Fairpoint had agreed that they would “aggressively deploy expanded broadband to 90% by 2013.” However, Fairpoint would work towards a 90% penetration by 2011 and a 95% penetration by 2013 if they received ARRA funds. In addition, Fairpoint believes that digital enhancement can change the way we work, live, learn, compete, and collaborate.

Michael Brown, Vice President of Network Architecture for Fairpoint Communications provided an overview of their region-wide network that encompasses Maine, New Hampshire, and Vermont. Fairpoint has a totally redundant network that works to their advantage. In addition, Fairpoint is looking for anchor tenants to support full video for customers, such as telehealth and distance learning.

Rep. Dill asked how they would pay for the anchor tenants. Mr. Brown stated that they would pay them with bandwidth and have “on-ramp” pricing. Rep. Dill asked if Fairpoint had done this in Maine. Mr. Brown’s answer was not yet as they need those endpoints. Jeffrey Letourneau asked if it is a shared 1 Gigabit circuit. Mr. Brown stated that the 1 Gigabit could be upgraded to 10 Gigabit.

Rep. Dill asked what Fairpoint’s proposal is for the ARRA funding. Mr. Brown stated that Fairpoint wanted to show what they were already doing and can accelerate the build-out in other areas. Rep. Dill clarified that their proposal is to use stimulus funds to increase broadband penetration but asked how much ARRA funds were needed. Mr. Brown stated that they were requesting \$20 million. Jeffrey Letourneau asked if they needed these funds in order to increase broadband penetration for the last mile. Mr. Brown stated that Fairpoint wants the funds to accelerate its timetable on penetration. Tony Buxton stated that Fairpoint is required to spend \$40 million under the merger agreement but would increase its investment by 50% if they get \$20 million in ARRA funds.

Rep. Dill stated that Severin Beliveau believes that Fairpoint had a concern with the University. Rep. Dill asked why Fairpoint would have a concern if Fairpoint is a Last Mile project and others are seen as a Middle Mile project. Tony Buxton stated that Fairpoint could lose \$10-\$11 million if others, such as the University, can take some of their potential customers. Jeffrey Letourneau stated that there are multiple telephone services in Maine. Mr. Brown agreed. Mr. Buxton further stated that no one else is coming in using public money and taking the backbone. It is different if you take hospital by hospital away from Fairpoint. Mr. Letourneau

stated that the University is not submitting its own proposal but will back what works for them as a user and purchaser of services.

Rep. Dill asked if the BBSC would see Fairpoint's application. Tony Buxton stated that they can share the non-confidential portion of their application after it is filed. Fairpoint has concerns about losing their biggest customers.

Senator Bliss stated that it would be hard to send a letter in support of proposals to our congressional delegation if the BBSC does not know specifics. Mr. Buxton stated that Fairpoint has a concern with sharing information with Mr. Letourneau who is the Director of the Communications and Network Services for the University of Maine System. Rep. Dill asked if Fairpoint was making the same argument in New Hampshire. Mr. Buxton stated that they were not.

Commissioner Vafiades stated that there are some parts of an application that the federal government treats as private and the rest is public when you apply to NTIA. Mr. Buxton stated that Fairpoint can give the BBSC what is not proprietary as well as a summary of the confidential information.

Passamaquoddy and Penobscot Tribes

Eric Mehnert who is the Chief Judge of the Penobscot Tribal Judges stated that he wanted to give an update on the Native American set asides and the stimulus funds. A representative for the Passamaquoddy and Penobscot Tribes stated that non-gaming tribes are eligible for funds. The tribes want to tie Maine into the global networks.

Rep. Dill asked if they were collaborating with another entity or if the two tribes were going to be an applicant itself. A representative for the Passamaquoddy and Penobscot Tribes stated that they have a federal organization that is a partnership with a private enterprise.

Rep. Dill asked if they had the same deadline of August 14, 2009. A representative for the Passamaquoddy and Penobscot Tribes stated that they do have the same deadline.

Wayne Gallant asked if their project is a Middle-Mile or a Last-Mile project. A representative for the Passamaquoddy and Penobscot Tribes stated that it is a Middle-Mile project.

Rep. Dill asked how much ARRA funds are they seeking and asked if the BBSC could help them. A representative for the Passamaquoddy and Penobscot Tribes stated that they were still developing the details but would provide information when it becomes available.

Vendean Vafiades believes that the BBSC would have more time to make recommendations if they missed the August 14th deadline. Rep. Dill recommended waiting until they can provide the BBSC with greater detail.

Motorbrain Consulting

Cheryl Russell from Motorbrain Consulting gave an overview of their satellite broadband service company who wants to reach the rural entrepreneur/home-based businesses. They have a \$5 million goal to reach 3,400 homes and businesses in Maine.

Senator Bliss stated that 3,400 is an aggressive target. Ms. Russell stated that they could reach the entire state or just Washington County. It is a grassroots effort to bring jobs to Lincoln County.

Senator Rector wanted clarification as to the cost of satellite versus other forms of service. Ms. Russell stated that it would be no cost for two years, then between \$49.99 to \$59.99 per month.

Commissioner Vafiades asked if they were pursuing NTIA and RUS funds. Ms. Russell's answer was yes. Commissioner Vafiades asked if there is an estimated take-rate. Ms. Russell would rather wait to answer that question.

Maine InfoNet

James Jackson-Sanborn and Marilyn Lutz from Maine InfoNet provided an executive summary of their proposal that includes regional public computer center hubs, 15-20 local computer centers at public libraries and training facilities for librarians. This middle-mile project will provide access for 109 communities and 645 critical community organizations.

Senator Bliss asked if they had an idea of the eight libraries. Ms. Lutz stated that the libraries are located in Augusta, Bangor, Portland, Lewiston, York, Cherryfield, Presque Island, and Farmington.

Sen. Rector wonders if there is overlap. Ms. Lutz stated that the need has been analyzed nationally. They really want to educate librarians.

Jeff Mao asked if they could leverage the student population to provide support assistance. Ms. Lutz stated that they can communicate this recommendation to Linda Lord.

Rep. Dill wanted clarification as to what is the difference between Maine School and Library Network and the Maine Library Learning Network. Ms. Lutz stated that the Maine State Library is the applicant and MSLN is the service provider.

Ms. Lutz wonders if they can get the Department of Education to send a letter of support. Jeff Mao told her to send over information and that they would talk at a later date.

GW

Eric Samp on behalf of GW stated that the three-ring binder project is a group of private companies. GW will likely be an applicant and a potential user of this new network of dark fiber. GW had initially reached out to Fairpoint but wasn't successful in getting that company to work with them.

Commissioner Vafiades believes that there is a lack of transparency as to who is involved in the three-ring binder project but understands the proprietary part. Eric Samp stated that it is a fluid project and it is the construction of fiber backbone in Maine. Commissioner Vafiades wonders if this is a middle-mile project. Mr. Samp's answer was yes. This project will build out in rural areas. Fairpoint is a last-mile project and the three-ring binder project is the backbone. Commissioner Vafiades wonders if GW is looking to compete with Fairpoint for state business. Mr. Samp stated that the backbone is not GW.

Senator Bliss stated that 40 state courts are computerized and could they have access to the network? Mr. Samp's answer was yes. The courts may want to be a purchaser of dark fiber services. Wayne Gallant stated that Office of Information Technology is not interested in being a network operator, but could be interested in some of the potential services. OIT does serve the courts now.

Senator Rector does not want the public providing competing services and wants no "parallel turnpikes." Rep. Dill stated that GW is not alone in not wanting duplicating service. This middle-mile project is the highway and the last-mile is to the businesses.

Telephone Association of Maine

Ben Sanborn on behalf of the Telephone Association of Maine said that TDS Telecom is looking at an application for funding for \$4 million for 10 exchanges focused on end users. Mr. Sanborn agrees that the BBSC can't judge applications until it sees the applications. TAM urges that the BBSC adopt objective standards. December is when NTIA will send the first cut back to the state.

V. Next Steps - Discussion Among BBSC Members

Senator Bliss is willing to review applications and give a nudge to our congressional delegation but not enough information is available. He recommends meeting again after August 14, 2009.

Commissioner Vafiades stated RUS does not have a statutory authority to include the states but that we need to weigh in at the most opportune time. Timing is important but we shouldn't do it too soon. We need to weigh in when projects are seriously being considered.

Rep. Dill stated that there are going to be a lot of projects in Washington that want to be funded. In addition, she believes that it is too high level for the BBSC to have strict objectives as TAM recommended so it is up to the NTIA. However, she could agree to support a project in the beginning and could nudge the delegation.

Phil Lindley agrees with Senator Bliss that applicants should be complementary and would recommend writing letters after August 14th.

Wayne Gallant believes that the BBSC should promote a project if they know what they are. Rep. Dill stated that the ConnectME Authority has the authority to promote projects.

Commissioner Vafiades stated that they could agree to support all the proposals but thinks they are looking for ones that meet the broadband strategy for Maine. BBSC's recommendation won't be as seriously considered unless it is meaningful input.

Rep. Dill recommended that the BBSC should wait until after the August 14th date and Phil Lindley could contact applicants or obtain application information. Commissioner Vafiades stated that there might be other proposals submitted that they are not aware of and asked if the BBSC could get information from the NTIA. Phil Lindley stated that he will find out and believes that there should be a list.

Phi Lindley stated the ConnectME Authority is meeting on August 19th. Rep. Dill thinks that the BBSC should give recommendations to the Authority and that the BBSC should not ask the Authority for their advice. Senator Rector stated that it would be helpful if the BBSC heard from the Authority after their August 19th meeting as to what they would like to see presented to them. Rep. Dill stated that Phil Lindley could provide feedback from the Authority.

Cathy Renault wanted to know what criteria that the BBSC will use when they review these projects. Rep. Dill wonders if they would need more work on the criteria. Wayne Gallant agrees. Senator Bliss recommended that the BBSC members send emails to each other and put all the information in the hands of a

smaller group to vet. All members agreed. The subcommittee consists of Wayne Gallant (chair), Kathy Renault, Phil Lindley, and Rep. Dill.