

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2008-162

February 5, 2009

MAINE DEPARTMENT OF EDUCATION
AND MAINE STATE LIBRARY
Annual Proposal Filed Pursuant to
Chapter 285 § 4 (2009-2010)

ORDER

REISHUS, Chairman; VAFIADES and CASHMAN, Commissioners

I. SUMMARY

In this Order, we approve the Maine Department of Education and Maine State Library (DOE/MSL) proposal for spending from the Maine Telecommunications Education Access Fund (MTEAF) for the period July 1, 2009 through June 30, 2010.

II. BACKGROUND

In our May 13, 2008 Order in this Docket approving MTEAF spending for 2008-2009, we directed the DOE/MSL to file its proposal for spending in 2009-2010 by October 31, 2008. Chapter 285 of our rules requires such a proposal be filed no later than March 31 of each year. In our May 2008 Order, we directed the DOE/MSL to file its proposal by October 31, 2008 to allow the Commission to consider the proposal prior to the DOE/MSL filing applications for Federal E-Rate funding due in early February 2009. DOE/MSL filed its proposal on December 18, 2008.

III. PROPOSAL FOR 2009-2010

DOE/MSL plan to extend the existing contracts with FairPoint (for transport services) and the University of Maine (for Internet service) for one more year. Schools and libraries will continue to be provided with either one or two T-1s depending on their usage levels. DOE/MSL projects that 35 more libraries and 60 more schools will qualify for two T-1s. This will increase spending for MTEAF in 2009-2010 by \$308,940. DOE/MSL also requests funding of \$120,000 to expand available bandwidth for ATM sites and an increase of \$8,665 to support the circuit rider program and the Maine School and Library Network manager. Finally, DOE/MSL requests an additional \$50,000 for MARVAL library databases and \$95,000 for a new federated searching tool, which is compatible with the MARVAL databases. All other spending remains the same as that approved for 2008-2009.

The Commission sought comments from interested persons on the proposal.¹ The only comments received were from the Telephone Association of Maine (TAM). TAM questioned paying administrative costs associated with obtaining Federal E-Rate funds from the MTEAF and supports Alternative Equivalent Value (AEV) payments to the extent they offset payments for T1s.²

IV. DECISION

After reviewing the proposal, we determine that it meets the criteria in 35-A M.R.S.A. § 7104-B(4) and (5). We also find that the additional spending can be accommodated without increasing the current assessment on carriers of .6%. We therefore approve the proposal for MTEAF funding for 2009-2010. We approve this level of spending for this period only. It is possible to accommodate additional spending requests within .6% assessment level only because some funds will be carried over from the previous year. We expect any new program design for 2010-2011 to be accommodated at the .6% assessment level or less.

We view the amounts spent on library databases and search tools (\$645,000) and the bandwidth for ATM sites (\$400,000) as meeting the requirements in 35-A M.R.S.A. § 7104-A(5) that a minimum of 25% of each annual program budget be targeted to programs that are innovative and technically advanced.³

With regard to TAM's comments, we note that the administrative costs of the E-Rate consultant and MSLN manager equal less than 5% of the total budget when Federal E-Rate and MTEAF are taken together (9% of MTEAF funds alone); not the 15% indicated in TAM's comments. We agree, however, that the E-Rate application process should be as efficient as possible. Therefore, DOE/MSL shall include in its proposal for 2010-2011 spending (described below), a description of how the E-Rate application process will be handled (e.g., through a state level consortium application, schools and libraries filing their own applications), and an analysis of why the choice made is the most cost-effective one.

DOE/MSL reports that its contracts with FairPoint and University of Maine will be expiring by June 2010. We understand that to meet Federal E-Rate timelines it will need to issue RFPs for services by summer/early fall 2009. We assume planning is currently taking place to meet this timeline. No later than July 1, 2009, DOE/MSL

¹ A request for comments was sent to the service list from last year's proposal and was posted on the Commission's website.

² TAM is correct that any amount spent on AEV will decrease the amount spent for transport services.

³ At an assessment of .6%, the Fund is projected to collect approximately \$3,580,000. Twenty-five percent equals \$894,750.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.