STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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COMMISSIONERS

KAREN GERAGHTY
ADMINISTRATIVE DIRECTOR

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

Attachment 1

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.

with a specific definition of NIFs that are eligible, how many sites plan to use this offering and the projected costs. We also understand the DOE/MSL plans to support legislation that would make specific the eligibility of NIFs. After the Legislature considers such changes, we may review our decision to allow funding for NIFs. We also agree with TAM that Networkmaine should provide further details on what is included in the $120,000 increase in the Technical Services line in the budget.

We note that expenses for MARVAL databases and the One Search tools for libraries are projected to increase by $57,599. The Plan proposes funding $5,000 of this amount from MTEAF with the difference of $52,599 being paid by DOE/MSL and other libraries. We find that these services are essential to the mission of libraries and there is some risk that such funds would not be available from the general fund budget or elsewhere to cover these costs. Therefore, we find that the entire amount of $57,599 should be paid from MTEAF, as sufficient funds exists to cover this amount.

VI. ASSESSMENT

The current assessment of 0.6% collects $3.7 to $3.8 million dollars annually. The fund currently contains sufficient funds to lower the assessment to 0.3% and still cover the projected budget. Accordingly for the year beginning July 1, 2012 through June 30, 2010, the assessment on telecommunications carriers will be set at 0.3%

VII. CONCLUSION

Based on our review, we find that the Plan for 2001 -2012 meets the requirement of 35-A M.R.S.A. § 7104-B and we approve it with the addition of $52,599 for library data bases as described above. This approval is conditioned on Networkmaine providing: 1) additional information on the qualifications for consideration as a NIF , the number of NIF locations that will seek funding and the estimated cost and 2) additional details on what is included in the $120,000 increase in the Technical Services line in the budget.

Dated at Hallowell, Maine, this 1st day of February, 2011.

BY ORDER OF THE COMMISSION

Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR: Cashman
Vafiades

COMMISSIONER DISSENTING: Littell – Concurring in part and Dissenting in part as described in the Order.

Attachment 2

E-rate Funding Requests for NIFs 2011-2012

Site ID	Entity 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