

CONNECTME



State of Maine

ConnectME Authority

59 State House Station, Augusta, Maine 04333-0059

Connect.ME@maine.gov

www.Maine.gov/connectme/

Authority Members: Douglas Birgfeld - Susan Corbett - Liz Wyman
Fred Brittain - Nick Battista - Jeffrey Letourneau - Dr. Theodore Logan

BOARD ORIENTATION

Tuesday December 17, 2019 @ 9:00 a.m.

Department of Economic and Community Development

Burton Cross Building 3rd Floor

111 Sewall Street

Augusta, ME 04330

Call in: 877-455-0244

Code: 6961850253

AGENDA

1. New Board Member Introductions
2. Statutes & Rulemaking
3. ConnectME Board & Staff Duties & Responsibilities Discussion
 - Unserved/Underserved Definitions
 - Annual Report
 - Broadband Action Plan
4. State of Maine 10- Year Economic Development Strategy Update
5. Vision & Plans as we Move Forward

CHAPTER 93

ADVANCED TECHNOLOGY INFRASTRUCTURE

§9201. Short title

This chapter may be known and cited as "the Advanced Technology Infrastructure Act." [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 665, §3 (NEW).]

1. Advanced communications technology infrastructure. "Advanced communications technology infrastructure" means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability and connectivity.

[PL 2019, c. 343, Pt. QQ, §1 (AMD).]

2. Authority. "Authority" means the ConnectME Authority established in section 9203.

[PL 2005, c. 665, §3 (NEW).]

3. Communications service. "Communications service" means any wireline voice, satellite, data, fixed wireless data or video retail service.

[PL 2005, c. 665, §3 (NEW).]

4. Communications service provider. "Communications service provider" means:

A. Any entity offering communications service to customers in the State; or [PL 2005, c. 665, §3 (NEW).]

B. Any facilities-based provider of wireless voice or data retail service that voluntarily chooses to be assessed by the authority pursuant to section 9211. [PL 2005, c. 665, §3 (NEW).]

[PL 2005, c. 665, §3 (NEW).]

5. Unserved or underserved area. "Unserved or underserved area" means an area that the authority pursuant to section 9204-A, subsection 1 determines to meet criteria established by the authority by rule adopted pursuant to section 9205, subsection 3.

[PL 2015, c. 284, §2 (AMD).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2015, c. 284, §2 (AMD). PL 2019, c. 343, Pt. QQ, §1 (AMD).

§9202-A. State broadband policy

1. Goals. The goals of the State related to broadband service are that:

A. Broadband service be universally available in this State, including to all residential and business locations and community anchor institutions; [PL 2015, c. 284, §3 (RPR).]

B. There be secure, reliable, competitive and sustainable forward-looking infrastructure that can meet future broadband needs; and [PL 2015, c. 284, §3 (RPR).]

C. All residents, businesses and institutions in the State be able to take full advantage of the economic opportunities available through broadband service. [PL 2015, c. 284, §3 (NEW).]

[PL 2015, c. 284, §3 (RPR).]

2. Policies. The policies of the State related to broadband service are to:

A. Maximize sustainable investment in broadband infrastructure in the State; [PL 2015, c. 284, §3 (RPR).]

B. Maximize federal and private resources to support the deployment of broadband infrastructure in unserved and underserved areas of the State; [PL 2015, c. 284, §3 (RPR).]

C. Prioritize the use of state resources to assist deployment of infrastructure to provide broadband service in unserved and underserved areas of the State; [PL 2015, c. 284, §3 (RPR).]

D. Promote adoption of broadband service by residents, businesses and institutions; and [PL 2015, c. 284, §3 (RPR).]

E. Leverage existing infrastructure to extend broadband service. [PL 2015, c. 284, §3 (RPR).]

F. [PL 2015, c. 284, §3 (RP).]

[PL 2015, c. 284, §3 (RPR).]

SECTION HISTORY

PL 2009, c. 586, §1 (NEW). PL 2015, c. 284, §3 (RPR).

§9203. ConnectME Authority

1. Establishment; membership. The ConnectME Authority is established to further the goals and policies in section 9202-A. The authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of the following 7 voting members:

A. The chair of the Public Utilities Commission or the chair's designee; [PL 2005, c. 665, §3 (NEW).]

B. The Chief Information Officer of the State or the officer's designee; [PL 2015, c. 284, §4 (AMD).]

C. One representative of consumers, appointed by the Governor; [PL 2015, c. 284, §4 (AMD).]

D. Two members with significant knowledge of communications technology, appointed by the Governor; [PL 2015, c. 284, §4 (AMD).]

E. The Commissioner of Economic and Community Development or the commissioner's designee; and [PL 2015, c. 284, §4 (NEW).]

F. One member with significant knowledge of telemedicine as defined in Title 24-A, section 4316, subsection 1, appointed by the Governor. [PL 2015, c. 284, §4 (NEW).]

Compensation of members is as provided in Title 5, section 12004-G, subsection 33-F.

[PL 2015, c. 284, §4 (AMD).]

2. Terms; chair; vacancies. All members are appointed for 3-year terms. The Governor shall appoint a chair from among the 4 members appointed by the Governor. In the event of a vacancy in the membership, the Governor shall appoint a replacement member for the remainder of that vacated term. Each member of the authority serves until that member's successor is appointed and qualified. Any member of the authority is eligible for reappointment.

[PL 2015, c. 284, §4 (AMD).]

3. Officers; quorum. The authority may elect a secretary and a treasurer, who may, but need not, be members of the authority. Four members of the authority constitute a quorum, and the affirmative vote of 4 members is necessary for any action taken by the authority.

[PL 2015, c. 284, §4 (AMD).]

4. Participation by members. A member may participate in a meeting of the authority and place a vote electronically or telephonically as long as members of the public have an opportunity to listen to the deliberations of the authority and otherwise participate in or observe the proceedings of the authority consistent with Title 1, section 405.

[PL 2005, c. 665, §3 (NEW).]

5. Indemnification. Each member of the authority must be indemnified by the authority against expenses actually and necessarily incurred by the member in connection with the defense of any action or proceeding in which the member is made a party by reason of being or having been a member of the authority and against any final judgment rendered against the member in that action or proceeding.

[PL 2005, c. 665, §3 (NEW).]

6. Staff.

[PL 2015, c. 284, §5 (RP).]

7. Staff; central broadband planning board. The Department of Economic and Community Development shall provide staff for the authority. That staff shall serve as the central broadband planning board for the State and shall support the authority in accordance with the provisions of this chapter.

[PL 2019, c. 343, Pt. QQ, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2015, c. 284, §§4, 5 (AMD). PL 2019, c. 343, Pt. QQ, §2 (AMD).

§9204. Duties of authority

(REPEALED)

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2009, c. 63, §§1, 2 (AMD). PL 2015, c. 284, §6 (RP).

§9204-A. Duties of authority

1. Establish criteria defining unserved and underserved areas. The authority, by rule adopted pursuant to section 9205, subsection 3, shall establish criteria to define unserved and underserved areas with respect to broadband service. Criteria established by the authority to define unserved and underserved areas must include the percentage of households with access to broadband service within a municipality or other appropriate geographic area. The authority shall use these criteria to determine those areas of the State that are unserved or underserved.

[PL 2015, c. 284, §7 (NEW).]

2. Promote use of broadband service. The authority shall promote use of broadband service by identifying and sharing best practices that encourage use of broadband service, eliminating barriers to use of broadband service and facilitating and supporting public-private partnerships to increase use of broadband service.

[PL 2015, c. 284, §7 (NEW).]

3. Support local and regional broadband planning. The authority shall provide technical and planning support and approve financial assistance to communities in the State that include unserved and underserved areas to identify the need for broadband infrastructure and services and develop and implement plans to meet those needs.

[PL 2019, c. 343, Pt. QQ, §3 (AMD).]

4. Support broadband investment. The authority shall expand the availability of broadband service to residential and small business customers in unserved or underserved areas by identifying,

developing and providing funding for broadband investments in unserved and underserved communities. Such investments may include infrastructure that is used by a single provider or by multiple providers.

[PL 2015, c. 284, §7 (NEW).]

5. Facilitate state support of deployment of broadband infrastructure. The authority shall review, recommend and facilitate changes in laws, rules, programs and policies of the State and its agencies to further deployment of broadband infrastructure to all unserved and underserved areas of the State. The authority shall assist in identifying opportunities to use broadband infrastructure to achieve the state policies and goals as set out in section 9202-A and support coordination between communications providers and state and local governmental entities on initiatives where broadband infrastructure could be advanced.

[PL 2019, c. 343, Pt. QQ, §4 (AMD).]

6. Collect and disseminate information. The authority shall collect, aggregate, coordinate and disseminate information regarding the availability of and need for advanced communications technology infrastructure in the State and opportunities for funding for broadband infrastructure and education.

[PL 2015, c. 284, §7 (NEW).]

6-A. Notice of construction. The authority shall disseminate information about a proposed underground facility that it receives in accordance with section 2503, subsection 2 in a manner that is accessible to all parties that may be interested in installing a broadband conduit in the area of the proposed underground facility.

[PL 2017, c. 344, §2 (NEW).]

7. Administer funds. The authority shall administer the ConnectME Fund as established pursuant to section 9211.

[PL 2015, c. 284, §7 (NEW).]

8. Limitations on activities of the authority. The authority may not develop, acquire, fund, coordinate or otherwise undertake any project or make any grant, direct investment or loan under this chapter unless the authority determines that without the authority's action the installation of adequate advanced communications technology infrastructure in an unserved or underserved area would not occur within the same time period. When providing grants, direct investment or loans for broadband infrastructure investments, the authority shall give preference to those investments that provide the greatest relative improvement to existing broadband service in an unserved or underserved area. Notwithstanding any other provision of this chapter, the authority may not provide any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

[PL 2015, c. 284, §7 (NEW).]

SECTION HISTORY

PL 2015, c. 284, §7 (NEW). PL 2017, c. 344, §2 (AMD). PL 2019, c. 343, Pt. QQ, §§3, 4 (AMD).

§9205. General powers

In order to carry out the purposes of this chapter, the authority has the following powers with respect to a project together with all powers incidental to or necessary for the performance of these powers: [PL 2005, c. 665, §3 (NEW).]

1. Power to sue and be sued. To sue or initiate or appear in any proceeding. The authority may be sued on its written contracts or in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;

[PL 2005, c. 665, §3 (NEW).]

2. Official seal. To adopt and have an official seal and alter the seal at pleasure;
[PL 2005, c. 665, §3 (NEW).]

3. Bylaws; rules. To adopt bylaws and any rule necessary or useful for carrying out any of the authority's powers or duties pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;
[PL 2019, c. 2, §1 (AMD).]

4. Acquire real or personal property. To acquire real or personal property or any interest in real or personal property, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise; to improve, hold, sell with or without public bidding, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, any interest in real or personal property or mortgage interests owned or in its control, custody or possession; and to release or relinquish any right, title claim, lien, interest, easement or demand, however acquired, including threat of foreclosure;
[PL 2005, c. 665, §3 (NEW).]

5. Prepare and plan projects and facilities. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment for a project and attendant facilities and from time to time to modify or cause to be modified those plans, specifications, designs or estimates;
[PL 2005, c. 665, §3 (NEW).]

6. Improve and equip project and attendant facilities. By contract or contracts to construct, acquire, alter, repair, reconstruct, rehabilitate, improve and equip a project and necessary and usual attendant facilities;
[PL 2005, c. 665, §3 (NEW).]

7. Maintain, reconstruct and operate. To maintain, reconstruct and operate, or cause to be maintained, reconstructed and operated, a project;
[PL 2005, c. 665, §3 (NEW).]

8. Fix and collect fees. To fix and collect fees, lease-rentals and other charges for the use of a project to transmit voice, data or video signals and to provide for the adoption of such reasonable and proper rules as may be necessary to ensure the maximum use at all times of the facilities of any project;
[PL 2005, c. 665, §3 (NEW).]

9. Provide for financing or refinancing. To provide financing for a project or to provide for refinancing of existing indebtedness and for the financing of the project and of other necessary and usual attendant facilities;
[PL 2005, c. 665, §3 (NEW).]

10. Make and execute contracts. To make and execute contracts and other instruments and enter into such transactions as necessary or convenient for the exercise of the authority's powers and functions under this chapter;
[PL 2005, c. 665, §3 (NEW).]

11. Agreements; acceptions; contributions; aid; grants. To enter into agreements with and accept loans, aid, contributions, grants and the cooperation or assistance of the United States, or any agency of the United States, or of the State or any agency or governmental subdivision in furtherance of the purposes of this chapter, including, but not limited to, the development and financing of a project, and to do all things necessary in order to avail the authority of those loans, aid, contributions, grants and cooperation;
[PL 2005, c. 665, §3 (NEW).]

12. Accept aid or contributions. To receive and accept from any source aid or contributions of money, property, labor or other things of value, to be held, used and applied to carry out the purposes

of this chapter, subject to the conditions upon which those grants and contributions are made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for any purpose consistent with this chapter;
[PL 2005, c. 665, §3 (NEW).]

13. Insurance. To procure insurance against any loss in connection with the authority's securities and its property and other assets in such amounts and from such insurers as it considers desirable;
[PL 2005, c. 665, §3 (NEW).]

14. Modification of contract, lease, indenture or agreement. To consent to any modification of any contract, lease, indenture or agreement of any kind to which the authority is a party;
[PL 2005, c. 665, §3 (NEW).]

15. Manage or operate real and personal property. To manage or operate, or cause to be managed or operated, real and personal property, to take assignments of leases and rentals or to take any other action necessary or incidental to the performance of the authority's duties under this chapter;
[PL 2005, c. 665, §3 (NEW).]

16. Lease or rent facilities or equipment used to transmit voice, data or video signals. To lease or rent any facilities or equipment for a project for such amounts as the authority determines to a communications service provider to further the purposes of this chapter, as long as the obligation of the service provider is considered a binding contract with the authority and as long as no liability on account of the authority may be incurred beyond the money available for that purpose and may be considered a liability of the State;
[PL 2005, c. 665, §3 (NEW).]

17. Investments. Except as otherwise provided in this chapter, to invest any funds not needed for immediate use, including any funds held in reserve, in property or in securities in which fiduciaries in the State may legally invest funds;
[PL 2005, c. 665, §3 (NEW).]

18. Appearances. To appear on the authority's own behalf before boards, commissions, departments or agencies of a municipality or the State Government or the Federal Government;
[PL 2005, c. 665, §3 (NEW).]

19. Executive director; other employees. To employ an executive director, consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in the authority's judgment; and
[PL 2005, c. 665, §3 (NEW).]

20. All acts granted or implied. To do any act necessary or convenient to exercise the powers granted in this chapter or reasonably implied by this chapter.
[PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2019, c. 2, §1 (AMD).

§9206. ConnectME Advisory Council

(REPEALED)

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2015, c. 284, §8 (RP).

§9207. Collection of data

Subject to the provisions in this section, the authority may collect data from communications service providers and any wireless provider that own or operate advanced communications technology

infrastructure in the State concerning infrastructure deployment and costs, revenues and subscribership. [PL 2005, c. 665, §3 (NEW).]

1. Confidential information. If the authority, on its own or upon request of any person or entity, determines that public access to specific information about communications service providers in the State could compromise the security of public utility systems to the detriment of the public interest or that specific information is of a competitive or proprietary nature, the authority shall issue an order designating that information as confidential. Information that may be designated as confidential pursuant to this subsection includes, but is not limited to, network diagrams. The authority may designate information as confidential under this subsection only to the minimum extent necessary to protect the public interest or the legitimate competitive or proprietary interests of a communications service provider. The authority shall adopt rules pursuant to section 9205, subsection 3 defining the criteria it will use to satisfy the requirements of this paragraph and the types of information that would satisfy the criteria. The authority may not designate any information as confidential under this subsection until those rules are finally adopted.

Information designated as confidential under this subsection is not a public record under Title 1, section 402, subsection 3.

[PL 2005, c. 665, §3 (NEW).]

2. Protection of information. A communications service provider may request that confidential or proprietary information provided to the authority under subsection 1 not be viewed by those members of the authority who could gain a competitive advantage from viewing the information. Upon such a request, the authority shall ensure that the information provided is viewed only by those members of the authority and staff who do not stand to gain a competitive advantage and that there are adequate safeguards to protect that information from members of the authority who could gain a competitive advantage from viewing the information.

[PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9208. Legislative oversight; report to committee

No later than January 15th of each year, the authority shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities matters that: [PL 2005, c. 665, §3 (NEW).]

1. Budget. Includes a report on the budget of the authority; [PL 2005, c. 665, §3 (NEW).]

2. Activities. Documents the activities of the authority, including a detailed description of the progress toward the goals and objectives established in the triennial strategic plan under section 9218; [PL 2015, c. 284, §9 (AMD).]

3. Investments. Contains a listing of any investments of money in the ConnectME Fund, as established pursuant to section 9211, and a tracking of the infrastructure improvements resulting from the investments; and [PL 2005, c. 665, §3 (NEW).]

4. Market conditions. Contains an analysis of the availability of communications services and advanced communications technology infrastructure, including an analysis of the competitive market in the State for communications services and advanced communications technology infrastructure and whether the communications services provided in the State are reasonably comparable to services provided regionally and nationwide. [PL 2005, c. 665, §3 (NEW).]

After receiving a report under this section, the joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation relating to the authority. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2015, c. 284, §9 (AMD).

§9209. Conflicts

A member of the authority may not participate in any decision on any contract entered into by the authority under this chapter if that member has any interest, direct or indirect, in any firm, partnership, corporation or association that is party to the contract. The interest must be disclosed to the authority in writing and must be set forth in the minutes of the authority. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9210. Actions against authority

A member of the authority, while acting within the scope of this chapter, is not subject to any personal liability resulting from the exercise or carrying out of any of the authority's purposes or powers. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9211. ConnectME Fund

1. ConnectME Fund established. The ConnectME Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the authority for the purposes of supporting the activities and projects of the authority under this chapter. [PL 2005, c. 665, §3 (NEW).]

2. Assessment. After receiving authorization pursuant to Title 5, section 8072 to finally adopt major substantive rules under section 9205, subsection 3 or after January 15, 2007, whichever is later, the authority may require every communications service provider to contribute on a competitively neutral basis to the fund. The assessment may not exceed 0.25% of the revenue received or collected for all communications services provided in this State by the communications service provider. A facilities-based provider of wireless voice or data retail service may voluntarily agree to be assessed by the authority as a communications service provider under this subsection. [PL 2005, c. 665, §3 (NEW).]

2-A. Surcharge; collection. Beginning January 1, 2020, in addition to the assessment imposed pursuant to subsection 2, a ConnectME surcharge of 10¢ per line or number is imposed. The assessment imposed pursuant to subsection 2 and the surcharge imposed pursuant to this subsection must be collected from the customer on a monthly basis by each communications service provider. Revenue must be deposited in the fund. [PL 2019, c. 343, Pt. SSSS, §3 (NEW).]

3. Explicit identification of assessment and surcharge on customer bills. A communications service provider assessed pursuant to subsection 2 may recover the amount of the assessment from the provider's customers. If a provider recovers the amount from its customers, it must explicitly identify the amount owed by a customer on the customer's bill and indicate that the funds are collected for use in the ConnectME Fund. Beginning January 1, 2020, the ConnectME surcharge imposed pursuant to subsection 2-A must be shown separately from the assessment imposed pursuant to subsection 2 as a statewide ConnectME surcharge on the customer's bill. [PL 2019, c. 343, Pt. SSSS, §4 (AMD).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2019, c. 343, Pt. SSSS, §§3, 4 (AMD).

§9211-A. Municipal Gigabit Broadband Network Access Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicant" means a community, regional partnership or municipality that applies for a grant under this section. [PL 2015, c. 323, §1 (NEW).]

B. "Community" means a municipality with a population of at least 1,200 people, as determined by the authority in accordance with the United States Census data, or a municipality that has received a waiver from this population requirement from the authority upon a determination that the municipality is in an unserved or underserved area. [PL 2015, c. 323, §1 (NEW).]

C. "Fund" means the Municipal Gigabit Broadband Network Access Fund established in this section. [PL 2015, c. 323, §1 (NEW).]

D. "Regional partnership" means 2 or more municipalities that do not, on their own, meet the requirements of paragraph B and have joined together with one or more contiguous municipalities in the region to achieve the population requirements of paragraph B. [PL 2015, c. 323, §1 (NEW).]

[PL 2015, c. 323, §1 (NEW).]

2. Fund established. The Municipal Gigabit Broadband Network Access Fund is established as a nonlapsing, revolving fund administered by the authority for the purposes of supporting the activities and projects of the authority under this section. All money in the fund must be continuously applied by the authority to carry out this section. The authority may receive and deposit in the fund funds from the following sources:

A. Federal funds and awards that may be used for the purposes of this section; [PL 2015, c. 323, §1 (NEW).]

B. The proceeds of bonds issued for the purposes of this section; and [PL 2015, c. 323, §1 (NEW).]

C. Any other funds from public or private sources received in support of the purposes for which the fund is established. [PL 2015, c. 323, §1 (NEW).]

[PL 2015, c. 323, §1 (NEW).]

3. Purpose of the fund. The fund is established to address the need in the State for access to ultra high-speed broadband infrastructure that will enhance the State's competitiveness in national and international economies. To the extent funds are available, the fund must be used to provide grants to communities, regional partnerships and municipalities to support public-private partnerships to support a municipal gigabit fiber-optic broadband network in their regions with the following goals:

A. Provide high-speed broadband access to attract, create and grow the State's economy and market the products and services of businesses in the State in national and international markets with ultra high-speed symmetric connectivity and address challenges in geography; [PL 2015, c. 323, §1 (NEW).]

B. Provide expanded health care services by facilitating access to telemedicine, as defined in Title 24-A, section 4316, subsection 1, and state and local services for senior citizens and persons with disabilities; [PL 2015, c. 323, §1 (NEW).]

C. Expand educational opportunities for students across the State through virtual and distance learning; [PL 2015, c. 323, §1 (NEW).]

- D. Facilitate broader access for the public to services provided by municipal and county governments, including, but not limited to, law enforcement entities, the judicial system and child, youth and family social services; and [PL 2015, c. 323, §1 (NEW).]
- E. Provide expanded residential services to support employment opportunities. [PL 2015, c. 323, §1 (NEW).]

In order to facilitate the achievement of the goals and policies of this section, the authority shall establish and regularly update, after opportunity for public comment and taking into consideration relevant federal policies, definitions of "gigabit fiber-optic broadband network" and "ultra high-speed broadband infrastructure."

[PL 2015, c. 323, §1 (NEW).]

4. Implementation grants; maximum awards. To the extent funds are available, the authority shall award implementation grants to achieve the purpose of the fund as described in subsection 3 as follows.

- A. An implementation grant to an applicant may not exceed \$200,000 for each eligible project selected for funding. [PL 2015, c. 323, §1 (NEW).]
- B. An implementation grant may be awarded only to an applicant that has demonstrated to the satisfaction of the authority that it has a viable plan identical or similar to one created in accordance with subsections 5, 6 and 7. [PL 2019, c. 343, Pt. QQ, §5 (AMD).]
- C. Municipalities selected for funding must be required to provide a 25% cash match. [PL 2015, c. 323, §1 (NEW).]

[PL 2019, c. 343, Pt. QQ, §5 (AMD).]

5. Planning grants; requirements for applicants. In order to assist applicants with completion of the planning process necessary to achieve the goals of this section, to the extent funds are available, the authority shall award planning grants of up to \$20,000 for community applicants and up to \$25,000 for regional partnerships and municipalities, which require a cash match. The authority shall establish application requirements for planning grants for community and regional applicants that require an applicant to demonstrate to the satisfaction of the authority participation with public and private institutions and local businesses in the development of the grant process. Municipal applicants must provide the authority with the following information:

- A. A plan that identifies how the municipality will use ultra high-speed broadband access to fulfill the economic goals of the municipality; [PL 2015, c. 323, §1 (NEW).]
- B. A written commitment to nondiscriminatory open access to the broadband infrastructure by all parties involved in the grant; [PL 2015, c. 323, §1 (NEW).]
- C. A written summary of public forums used to gather information from the public in establishing the goals for the grant that serve the goals of this section; [PL 2015, c. 323, §1 (NEW).]
- D. Information gathered from local public and private institutions that identifies how the broadband services will expand access to state and local services identified under subsection 3; and [PL 2015, c. 323, §1 (NEW).]
- E. A summary of input received from the business community to identify the services that will be used in planning the implementation grant application. [PL 2015, c. 323, §1 (NEW).]

[PL 2015, c. 323, §1 (NEW).]

6. Planning grant requirements. An applicant awarded a planning grant under subsection 5 must provide to the authority:

- A. Identification of the local broadband needs and goals; [PL 2015, c. 323, §1 (NEW).]

B. An inventory of existing broadband infrastructure assets within the municipality, municipalities or region; [PL 2015, c. 323, §1 (NEW).]

C. The results of a gap analysis that defines the additional broadband infrastructure necessary to meet identified needs and goals; [PL 2015, c. 323, §1 (NEW).]

D. One or more potential network designs, cost estimates, operating models and potential business models, based on input from broadband providers operating within the municipality, municipalities or region and any other parties that submit a network design solution, to address any broadband gaps identified in the analysis described in paragraph C; and [PL 2015, c. 323, §1 (NEW).]

E. An assessment of all existing municipal procedures, policies, rules and ordinances that may have the effect of delaying or increasing the cost of broadband infrastructure deployment. [PL 2015, c. 323, §1 (NEW).]

[PL 2015, c. 323, §1 (NEW).]

7. Cash match for planning grants; restrictions. The cash match required from the applicant for a planning grant under subsection 5 may consist of municipal appropriations, private funds, funding from economic development entities and funding from nonprofit entities.

[PL 2019, c. 343, Pt. QQ, §6 (AMD).]

8. Technical assistance; contract for services. The authority may provide technical assistance to applicants that request assistance with the grant application process. The authority may contract for services to assist in the administration, management and evaluation of the fund.

[PL 2015, c. 323, §1 (NEW).]

9. Rules; application procedure. The authority shall adopt rules to implement this section, including rules governing the application process for the fund. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 323, §1 (NEW).]

10. Report. Beginning December 15, 2016, the authority shall provide an annual report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters on the grants distributed from the fund and an analysis of the fund's activities that have addressed the need for expansion of ultra high-speed broadband access in the State.

[PL 2015, c. 323, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 323, §1 (NEW). PL 2019, c. 343, Pt. QQ, §§5, 6 (AMD).

§9212. Gifts and contributions

The authority may accept gifts and contributions on behalf of the authority for the purpose of designing, constructing, reconstructing, renovating or acquiring a project. [PL 2005, c. 665, §3 (NEW).]

The authority, in accepting gifts of money, federal funds or other types of income, shall place this money in a special account for the purpose for which it is provided. The authority may invest the money in accordance with the purposes of this chapter, subject to any limitations imposed by the donor. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9213. Use of revenues

The revenues derived by the authority from any assessment, transfer of funds, lease, assignment, rental agreement or other disposition or any other revenue must be used for the purposes of this chapter

and applied in a competitively neutral fashion and without giving preference to any one form of technology over another. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9214. No franchise fees

The authority may not establish or collect a franchise fee pursuant to 47 United States Code, Section 542 or Title 30-A, section 3008. If any tax, fee, charge or assessment or portion thereof established by the authority is held by a court of competent jurisdiction to be a franchise fee, the imposition of that tax, fee, charge or assessment or portion thereof is unenforceable. [PL 2005, c. 665, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 665, §3 (NEW).

§9215. Repeal

(REPEALED)

SECTION HISTORY

PL 2005, c. 665, §3 (NEW). PL 2007, c. 698, §1 (RP).

§9216. Broadband sustainability fee

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "First assessment period" means the period:

(1) Commencing on the first day of the month following the date on which a dark fiber provider first sells, leases or otherwise provides one or more strands of federally supported dark fiber to an entity in this State; and

(2) Ending on the last day of the 60th month following the commencement under subparagraph (1) or 90 days after the adjournment of the First Regular Session of the 127th Legislature, whichever comes first. [PL 2015, c. 151, §1 (AMD).]

B. "Incumbent local exchange carrier" means a telephone utility that provided single-party service, voice grade access to the public switched telephone network in a defined service territory in the State on February 8, 1996, or its successor, or that is designated as an incumbent local exchange carrier pursuant to 47 United States Code, Section 251(h)(2). [PL 2009, c. 612, §10 (NEW).]

C. "Second assessment period" means the period:

(1) Commencing on the first day of the month following the end of the first assessment period; and

(2) Ending 90 days after the adjournment of the First Regular Session of the 127th Legislature. [PL 2015, c. 151, §1 (AMD).]

[PL 2015, c. 151, §1 (AMD).]

2. Broadband sustainability fee. Until 90 days after the adjournment of the First Regular Session of the 127th Legislature, an entity that purchases, leases or otherwise obtains federally supported dark fiber from a dark fiber provider is subject to the following broadband sustainability fees:

A. During the first assessment period, a monthly fee equal to \$3 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month; and [PL 2009, c. 612, §10 (NEW).]

B. During the 2nd assessment period, a monthly fee equal to \$2 multiplied by the number of miles of federally supported dark fiber strand purchased, leased or used by the entity during the month.

[PL 2009, c. 612, §10 (NEW).]

[PL 2015, c. 151, §2 (AMD).]

3. Collection. A dark fiber provider shall collect the broadband sustainability fees under subsection 2 and within 15 days after the end of each month remit the amounts collected to the authority. When remitting funds to the authority, the dark fiber provider shall include sufficient information to allow the authority to determine the number of miles of federally supported dark fiber strands sold, leased or used in the service territory of each incumbent local exchange carrier.

[PL 2009, c. 612, §10 (NEW).]

4. Deposit. The authority shall:

A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund established under section 9211 and may use these funds to support the activities of the authority under this section and for the purposes of section 9204-A; and [PL 2015, c. 284, §10 (AMD).]

B. Deposit 95% of the funds received under subsection 3 into the broadband sustainability fund established pursuant to subsection 5. [PL 2009, c. 612, §10 (NEW).]

[PL 2015, c. 284, §10 (AMD).]

5. Broadband sustainability fund. The authority shall establish a broadband sustainability fund, separate and distinct from any other funds held or maintained by the authority, for use in accordance with subsection 6. The fund is nonlapsing and all interest on funds in the fund remains in the fund for use in accordance with subsection 6. The authority may contract with an appropriate independent fiscal agent that is not a state entity to serve as the administrator of the fund.

[PL 2015, c. 151, §2 (AMD).]

6. Use of the broadband sustainability fund. The authority shall use funds in the broadband sustainability fund established pursuant to subsection 5 to support and promote broadband service in unserved or underserved areas.

A. [PL 2015, c. 151, §2 (RP).]

B. [PL 2015, c. 151, §2 (RP).]

C. [PL 2015, c. 151, §2 (RP).]

D. [PL 2015, c. 151, §2 (RP).]

[PL 2015, c. 151, §2 (AMD).]

SECTION HISTORY

PL 2009, c. 612, §10 (NEW). PL 2015, c. 151, §§1, 2 (AMD). PL 2015, c. 284, §10 (AMD).

§9217. Community broadband planning

The authority shall provide funds for broadband planning grants to municipalities, groups of municipalities or nonprofit local or regional community organizations that are providing local or regional economic development programs to develop plans to expand the availability of broadband services in unserved and underserved areas. [PL 2015, c. 284, §11 (NEW).]

1. Requirements of plans. Plans funded through grants under this section must:

A. Define local broadband needs and goals; [PL 2015, c. 284, §11 (NEW).]

B. Inventory existing broadband infrastructure assets within the municipality, municipalities or region; [PL 2015, c. 284, §11 (NEW).]

C. Include a gap analysis defining the additional broadband infrastructure necessary to meet identified needs and goals; [PL 2015, c. 284, §11 (NEW).]

D. Include one or more potential network designs, cost estimates, operating models and potential business models based on input from broadband providers operating within the municipality, municipalities or region and any other parties that submit a network design solution in the course of developing the plan to address any broadband gaps identified in paragraph C; and [PL 2015, c. 284, §11 (NEW).]

E. Include an assessment of all municipal procedures, policies, rules and ordinances that have the effect of delaying or increasing the cost of broadband infrastructure deployment. [PL 2015, c. 284, §11 (NEW).]

The authority shall make all plans developed using grant funds under this section available on the authority's publicly accessible website.

[PL 2015, c. 284, §11 (NEW).]

2. Distribution of grants. The authority shall ensure that planning grants under this section are equitably distributed throughout the unserved and underserved areas of the State and that the grants encourage collaboration between multiple communities.

[PL 2015, c. 284, §11 (NEW).]

3. Precertification. The authority may establish a precertification process to determine eligibility for planning grants under this section to encourage adoption of identified best practices by participating municipalities and organizations.

[PL 2015, c. 284, §11 (NEW).]

4. Limitations on matching funds. Matching funds provided by a municipality for planning grants under this section may not consist of in-kind contributions from the municipality or funds provided by a vendor or private business that proposes to build, operate or provide retail services using broadband infrastructure constructed pursuant to the planning grant.

[PL 2015, c. 284, §11 (NEW).]

SECTION HISTORY

PL 2015, c. 284, §11 (NEW).

§9218. Broadband service strategic plan

1. Broadband service strategic plan. The authority shall draft a detailed, triennial strategic plan for broadband service that includes quantifiable measures of performance to carry out the duties in section 9204-A and to further the goals and policies in section 9202-A. The strategic plan must include, but is not limited to, budget allocations, objectives, targets, measures of performance, implementation strategies, timelines, a definition of "broadband" and other relevant information.

[PL 2015, c. 284, §11 (NEW).]

2. Public input. The authority shall post the draft of the triennial strategic plan pursuant to subsection 1 on the authority's publicly accessible website 90 days before the date on which the plan will be voted on and provide opportunity for written comments and a public hearing at least 30 days prior to voting.

[PL 2015, c. 284, §11 (NEW).]

3. Approval of triennial strategic plan. The authority shall approve the triennial strategic plan pursuant to subsection 1 by affirmative vote of 2/3 of its members upon a finding that the plan is consistent with the policies, duties and requirements of the authority as set forth in this chapter.

[PL 2015, c. 284, §11 (NEW).]

SECTION HISTORY

PL 2015, c. 284, §11 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular Session of the 129th Maine Legislature and is current through October 1, 2019. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

SUMMARY: This Chapter describes the operation of the ConnectME Authority.

TABLE OF CONTENTS

§ 1	PURPOSE	3
§ 2	DEFINITIONS	3
§ 3	REQUIRED FILING OF DATA	4
	A. Broadband Service Provider	4
	B. Mobile Communications Service Provider.....	5
§ 4	PROTECTION OF CONFIDENTIAL INFORMATION	5
	A. Protected Information	5
	B. Issuance of Protective Orders	7
	C. Revocation of Confidential Treatment of Information	8
	D. Exception to Public Record Law	8
§ 5	DESIGNATION OF BROADBAND SERVICE AND ELIGIBLE AREAS	8
	A. Broadband Service.....	8
	B. Unserved Areas.....	9
	C. Underserved Areas.....	10
	D. Opportunity to Review Proposed Designation of Unserved and Underserved Areas	10
§ 6	CONNECTME AUTHORITY SUPPORT	10
	A. Priority Infrastructure Projects.....	10
	B. Eligible Applicants	10

C. Eligible Activities 11

D. Application Process 11

§ 7 CONNECTME FUND 16

A. Assessment..... 16

B. Additional Funds.....16

C. Fund Administrator..... 16

§ 8 WAIVER OF PROVISIONS OF CHAPTER 16

§ 1 PURPOSE

The purpose of this Chapter is to implement the provisions of the Advanced Technology Infrastructure Act contained in 35-A M.R.S., Chapter 93. This Chapter describes the operation of the ConnectME Authority.

As stated in 35-A M.R.S. §9204-A, duties of the Authority include:

1. Establish criteria defining unserved and underserved areas;
2. Promote use of broadband service;
3. Support local and regional broadband planning;
4. Support broadband investment;
5. Facilitate state support of deployment of broadband infrastructure;
6. Collect and disseminate information; and
7. Administer funds.

§ 2 DEFINITIONS

As used in this Chapter, the following terms have the following meanings.

- A. **Advanced Communications Technology Infrastructure.** “Advanced communications technology infrastructure” means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband service or wireless service coverage.
- B. **Authority.** “Authority” means the ConnectME Authority established in 35-A M.R.S. §9203.
- C. **Broadband Service.** “Broadband service” means a two-way, always-on, communications service that provides access to public data networks and the Internet, and meets certain performance criteria determined annually by the Authority pursuant to §5 of this Chapter to be the minimum necessary to use common applications and network services.
- D. **Broadband Service Provider.** “Broadband service provider” means a facilities based provider of broadband connections to end users that is required to file Form 477 with the Federal Communications Commission.
- E. **Communications Service.** “Communications service” means any wireline voice, satellite, data, fixed wireless data or video retail service.
- F. **Communications Service Provider.** “Communications service provider” means:
 1. Any entity offering communications service to customers in the State; or

2. Any facilities-based provider of mobile wireless voice or data retail service that voluntarily chooses to be assessed by the Authority under 35-A M.R.S. §9211.
- G. **Household.** “Household” means a house and its occupants, regarded as a unit.
 - H. **Infrastructure.** “Infrastructure” means a physical component or collection of physical components that provide the basic support for distributing communication services.
 - I. **Line.** A "line" is any wired or wireless connection capable of real-time concurrent inbound or outbound voice communication calls that are made or received to or from the public switched telephone network. For the purposes of this Chapter, private branch exchange (PBX) lines and Centrex lines are considered to be lines. For the purposes of this Chapter, the number of lines a service provider provides to a subscriber shall be deemed to equal the number of inbound or outbound calls the subscriber can maintain at the same time using the service provider’s service.
 - J. **Mobile Communications Service Provider.** “Mobile communications service provider” means any facilities-based provider of retail mobile wireless voice or data service.
 - K. **Underserved Area.** “Underserved Area” means any geographic area where broadband service exists, but where the Authority has determined that the service is inadequate pursuant to criteria set forth in section 5(C) of this Chapter.
 - L. **Unserved Area.** “Unserved Area” means any geographic area that the Authority has determined is without broadband service pursuant to criteria set forth in section 5(B) of this Chapter.

§ 3 REQUIRED FILING OF DATA

In order to achieve the purpose set forth in §1, the following is required:

- A. **Broadband Service Provider.** All broadband service providers shall file copies of all publicly available portions of FCC Form 477 pertaining to locations in Maine with the Authority within 60 days of the date the Form is filed at the FCC.
 1. **Schedule**
 - a. Reports containing data for the period July 1 through December 31 are due March 1 the following year or within 30 days after filing at the FCC, whichever is later.
 - b. Reports containing data for the period January 1 through June 30 are due September 1 of the same year or within 30 days after filing at the FCC, whichever is later.
 2. **Filing Procedure.** Filings shall be made via a secure electronic transmission, under procedures determined by the Authority.
 3. **Description of Products and Services.** Along with filing the publicly available FCC Form 477 data with the Authority, each broadband service provider will

provide additional information that describes its services as of December 31 or June 30, depending on the filing date. The additional information must include, at a minimum:

- a. A general description of each type of broadband service offered and technology used to provide the service; and
- b. The retail, non-promotional prices for each offering.

B. Mobile Communications Service Provider. By March 1 of each year, each mobile communications service provider that contributes to the ConnectME Fund will file the following information with the Authority, with information current as of December 31 of the previous year.

1. **Map One.** A coverage map at -95 dB in a GIS format and in real-world coordinate space (such as ESRI SHP). This map layer must be a true or false depiction indicating where the mobile communications service provider network operates at -95dB or better, and need not include a continuous qualitative depiction of signal quality across the network;
2. **Map Two.** A coverage map at -85 dB in a GIS format and in real-world coordinate space (such as ESRI SHP). This map layer must be a true or false depiction indicating where the mobile communications service provider network operates at -85dB or better, and need not include a continuous qualitative depiction of signal quality across the network; and
3. **Description of Service.** A description containing:
 - a. Frequency and/or spectrum (e.g., 700 MHz, Cellular, AWS, PCS, BRS/EBS) band used in each area served;
 - b. Transmission technology (e.g., EV-DO, HSPA+, TDMA, CDMA, GSM, LTE) in each area served;
 - c. Areas of digital and analog service; and
 - d. The minimum upload/download data speeds that users should expect to receive for the deployed technology in the given frequency band;
 - e. Number of mobile communications devices provided in Maine.

C. Additional Information. The Authority may request and communications service providers may voluntarily provide additional information to determine availability of broadband service in specific geographic locations to assist in evaluating or developing infrastructure grant proposals. Any information collected pursuant to this subsection shall be held as confidential by the Authority and may be used for only the purposes set forth in this subsection.

§ 4 PROTECTION OF CONFIDENTIAL INFORMATION

- A. **Protected Information.** Pursuant 35-A M.R.S. §9207, the Authority may, on its own or upon request of any person or entity, designate information as protected and exempt such information from public disclosure, and may further limit disclosure as provided in 35-A M.R.S.A. §§ 9207(2), to protect the security of public utility systems or to protect the legitimate competitive or proprietary interests of communications service providers and mobile communications service providers. An entity submitting information protected under §4 or an Authority-issued protective order, will mark the top of each page in large, conspicuous typeface “CONFIDENTIAL.” Each type of confidential information contained in the document must contain a reference to the specific subsection or protective order providing protection.

1. **Critical Infrastructure Information**

- a. **Standard.** The Authority will protect from public disclosure information concerning any communication service infrastructure that could facilitate the intentional, illegal interference with a communications service or mobile communications service.
- b. **Criteria.** In determining what information is protected as critical infrastructure information, the Authority considers:
- i. The extent to which the information could facilitate the disruption of critical emergency or other government communication services such as E911;
 - ii. The extent to which the information could facilitate the disruption of public communication services; and
 - iii. The ease or difficulty with which a person could acquire or duplicate the information from other sources.
- c. **Protected Information.** The Authority must automatically protect and not make public precise infrastructure location and deployment information, including geo-referenced data and the number(s) or extent of market penetration of a service provider’s subscribers and connections in discrete service areas, without a motion for protective order submitted by any provider. This includes, but is not limited to:
- i. Any electronic devices used in the transmission of communication services;
 - ii. Wireless towers and transmitters; and
 - iii. Distribution plant (including, but not limited to copper and fiber telephone plant as well as coaxial cable).
- d. **Information Protected Upon Request.** Upon request, the Authority will designate information other than that described in subsection (4)(1)(c) above as protected if it finds that such information meets the criteria of this subsection.

2. **Proprietary Business Information**

- a. **Standard.** The Authority will protect from public disclosure information of a competitive or proprietary nature to the minimum extent necessary to protect the legitimate competitive or proprietary interests of communications service providers and mobile communications service providers.
 - b. **Criteria.** In determining what proprietary business information will be protected, the Authority will consider:
 - i. The value of the information to the provider and its competitors;
 - ii. The amount of effort or money the provider expended in developing the information;
 - iii. The extent of measures taken by the provider to guard the secrecy of the information;
 - iv. The ease or difficulty with which others could properly acquire or duplicate the information; and
 - v. The degree to which third parties have placed the information in the public domain or rendered the information “readily ascertainable.”
 - c. **Protected Information.** The Authority must protect the following proprietary business information without further showing from the providers:
 - i. Information provided pursuant to §3, except if it is otherwise publicly available;
 - ii. Equipment make and model; and
 - iii. Non-public financial statements.
 - d. **Information Protected Upon Request.** Upon request, the Authority will consider designating other information as protected if it finds that such information meets the criteria of this subsection.
- B. Issuance of Protective Orders.** The Authority may, on its own motion or by motion of any person or entity, protect specific information or a class of information that has not been previously designated by the Authority as protected.
1. **Motion for Protective Order.** The party seeking the protective order must submit a Motion for Protective Order or Notice of Protective Order showing how the information meets the standards of either subsection 4(A)(1) or 4(A)(2), and how the protection it seeks is narrowly tailored.

2. **Filing and Notice.** The Motion for Protective Order or Notice of Protective Order must be submitted to the Authority, which will then post it on its website and distribute to interested parties.
 3. **Opposition to Motion or Notice.** Filings in opposition to or support of the Motion for Protective Order or Notice of Protective Order must be made within seven days of the filing of the Motion or Notice.
 4. **Protective Order Decision.** No later than 14 days after the filing of the Motion Protective Order or Notice of Protective Order the Authority will either issue the Protective Order or deny the motion for the Protective Order, stating its reasons for issuance or denial.
- C. **Revocation of Confidential Treatment of Information.** The Authority, upon its own motion or upon motion from any party seeking access to information protected under a Protective Order issued by the Authority or designated confidential by a provider pursuant to these rules, may revoke any prior confidential treatment or overrule a particular provider's designation of specific documents as confidential.
1. **Filing of Motion of Revocation.** The party seeking access to the confidential information contained in a Protective Order will file a Motion for Revocation of Protective Order (or in the case of the Authority, a Notice of Revocation of Protective Order) explaining why the information sought does not meet the criteria for protection as established by the Authority in this Chapter or otherwise.
 2. **Notice of Motion.** If the Motion for Revocation of Protective Order is directed at a specific Provider, the Motion must be served on that Provider and filed with the Authority. If the Motion is directed to a class of Providers, it need only be filed with the Authority. The Authority will post all Motions for Revocation of Protective Order on its website and distribute it to interested parties.
 3. **Opposition.** Filings in opposition or support of a Motion for Revocation of Protective Order must be made within seven days of the date the Motion was filed.
 4. **Protective Order Decision.** No later than 14 days after the filing of the Motion Protective Order or Notice of Protective Order the Authority will either issue the Protective Order or deny the motion for the Protective Order, stating its reasons for issuance or denial; provided, that no release of records shall take place before seven (7) days following issuance of a denial of stay request either by the Authority or by a court of competent jurisdiction, whichever later occurs.
- D. **Exception to Public Record Law.** Information designated as confidential by the Authority is not a public record under Title 1, section 402, subsection 3, per the authority granted in 35-A M.R.S. §9207.

§ 5 DESIGNATION OF BROADBAND SERVICE AND ELIGIBLE AREAS

- A. **Broadband Service.** At least annually, and subject to a thirty (30) day comment period, the Authority must determine the minimum performance criteria for broadband service,

for the purposes of this Chapter. The Authority must base its criteria on the state of the market as well as the performance necessary to meet the current broadband needs of common applications and network services in use in the State.

1. **Criteria Governing Performance.** To determine minimum performance criteria, the Authority may consider:
 - a. Minimum sustained bandwidth for both upstream and downstream transmission;
 - b. Maximum monthly throughput on a flat rate service offering; and
 - c. Any other performance criteria necessary for the use of common broadband applications and network services.
 2. **Criteria Governing Common Applications and Network Service.** To determine common applications and network services, the Authority may consider:
 - a. Real-time voice and video communication;
 - b. Audio and video streaming;
 - c. Network applications;
 - d. Network storage;
 - e. Interactive gaming;
 - f. File-sharing; and
 - g. Any other application or network service that facilitates communication, and data and content exchange.
- B. **Unserved Areas.** At least annually, and subject to thirty (30) day comment period, the Authority shall designate all geographic areas that are unserved. In making such a designation, the Authority shall consider data collected pursuant to §3 of this Chapter as well as other data sources that the Authority deems credible and appropriate to help make this determination.
1. **Broadband Unserved Areas.** In designating an unserved area, the Authority must find the following criteria:
 - a. Broadband service is not offered at any household within the geographic area pursuant to the most recent data submitted under subsection 3 or other credible data sources utilized by the Authority;
 - b. Broadband service is not offered to any other potential subscriber within the geographic area pursuant to the most recent data submitted under subsection 3 or other credible data sources utilized by the Authority.

- C. **Underserved Areas.** The Authority, subject to a thirty (30) day comment period, shall designate any geographic area as an underserved area and, therefore, eligible for a grant, when the Authority finds that:
1. Credible evidence has been presented that less than 20% of the households within a geographic area have access to broadband service. The use of grant funds is limited to only the unserved portions of the area.
- D. **Opportunity to Review Proposed Designation of Unserved and Underserved Areas**
1. Upon request, the Authority shall provide the boundary of any geographic area identified in an infrastructure grant application as unserved or underserved for the purpose of confirming the availability of broadband service within that geographic area.
 2. The Authority shall allow 30 days for the requesting entity to confirm the availability, or lack thereof, of broadband service prior to designating any geographic area an underserved area.

§ 6 **ConnectME AUTHORITY SUPPORT**

In order to achieve the purpose set forth in §1., the Authority shall determine:

- A. **Priority infrastructure projects.** The Authority shall give preference among eligible infrastructure grant applications to projects in unserved areas that provide the greatest relative improvement to existing Internet service in unserved areas. In determining what constitutes relative improvement, the Authority will consider the following criteria:
1. The number of potential subscribers to be served by the project, and the capital cost per potential subscriber to extend advanced communications technology infrastructures to potential subscribers;
 2. Whether Authority support for the project will inhibit or impede private investment in the area;
 3. Whether Authority support for the project will diminish the value of prior investment in advanced communications technology infrastructure used to provide broadband service or mobile communications service within the area; and
 4. Whether without the Authority's support for the project, the installation of adequate advanced communications technology infrastructure would not otherwise occur.
 5. The increase in download and upload speeds.
- B. **Eligible Applicants.** Applicants eligible to receive Authority support may include the following:
1. **For Community Planning Grants**

- a. General-purpose local governments (municipalities, groups of municipalities and counties);
- b. Groups or regional partnership of general-purpose local governments;
- c. Local government authorities, and joint or multi-county development authorities; and
- d. Non-profit local or regional community organizations that are providing local or regional economic development programs.

2. **For Infrastructure Grants**

- a. Communications service providers; and
- b. Any other responsible entity or group determined by the Authority to be capable of installing, using, and managing advanced communications technology infrastructure in the area.

C. **Eligible Activities.** Eligible uses of funds provided under the ConnectME Fund include activities, facilities, and services described in 35-A M.R.S., Chapter 93, including the provision of public infrastructure, services, facilities and improvements needed to implement new broadband services, enhance existing broadband services, implement new mobile communications service, or enhance existing mobile communications service or the provision of technical and financial assistance to support local and regional broadband planning activities, to only unserved areas. Funds may also be used for matching requirements, “gap” financing, and grants, that may assist projects in qualifying for other sources of funding, as well as any other activities that are integral and necessary for the development, installation and use of a broadband or mobile communications system.

D. **Application Process.** The Authority will initiate a round of grant-making through public announcement. Applicants will be provided information on how to apply for a grant and a copy of a grant scoring guide at the time of the announcement of the grant round. The application process is subject to change, depending on funds available for granting, but will include, at a minimum the following provisions:

1. **Infrastructure Grant Application.** The application for a grant to build infrastructure will include, at a minimum, the following:
 - a. a description of the area proposed to be served by the project and sufficient information to establish that it meets the Authority’s definition of an unserved or underserved area, as set forth in section 5 of this Chapter;
 - b. a description of the proposed project, including public-private partnerships that have been established, evidence that the private partner in the project is eligible to receive funding from the Authority, the type of service to be provided and, in the case of broadband service, the upstream and downstream speeds of the service to be provided, which must meet the minimum requirement established by the Authority as set forth in §5 of this Chapter, an estimate of the time required to complete

-
- the proposed project, the percentage distribution of households and businesses within the area to be served by the project and the estimated price per customer of the service to be provided by the proposed project;
- c. the total amount of funding requested from the Authority;
 - d. the applicant's financial commitment to the project in addition to the funding requested from the Authority;
 - e. the estimated number of customers who will directly benefit from the project who are currently unserved or underserved;
 - f. evidence of community support for the proposed project, which may include letters or signatures of residents or businesses located within the area of the proposed project; and
 - g. certification that the applicant has contacted the incumbent service provider(s) in the project area regarding current or impending plans for broadband infrastructure expansion and a description of such contact.
2. **Evaluation of Applications for Infrastructure Grants.** The application evaluation process will allow the Authority to concurrently evaluate all applications submitted during a particular application period that has been set by the Authority. In addition to evaluation of the greatest relative improvement offered by the project, the application will be judged using the following scoring categories:
- a. **Cost-Benefit.** The cost-benefit scoring is based on relevant factors, including, but not limited to, the amount of funding requested from the Authority per customer eligible to be served by the project, with lower funding per customer receiving a higher cost-benefit score;
 - b. **Community Support.** The community support score is based on relevant factors, including, but not limited to, evidence of community support for the project and the percentage of a households within the project area that will be served by the proposed project;
 - c. **Project Scope.** The project scope score is based on relevant factors, including, but not limited to, the number of customers to be served by the project, the type and, when relevant, the speed of service to be offered by the project and the applicant's financial commitment to the project; and
 - d. **Project Value.** The project value score is based on relevant factors, including, but not limited to, the estimated price per customer to receive service from the proposed project and any other details of the project that may benefit customers in the area proposed to be served by the proposed project.
3. **Planning Grant Applications.** An applicant for a community broadband planning grant must submit the following information to the Authority:

- a. a description of the area proposed to be the subject of the study and plan for broadband expansion;
 - b. a description of the applicant, including any public-private partnerships that have been established to seek the planning grant;
 - c. a description of any institutions or entities within the community that would qualify as an “anchor institution” that are supportive of broadband expansion;
 - d. the amount requested from the Authority to support the planning project;
 - e. the applicant’s financial commitment to the study and planning for broadband expansion in the community;
 - f. the applicant’s in-kind contribution to the study and planning for broadband expansion, including commitment of labor (paid or volunteer) and community resources;
 - g. an attestation that funds provided by the applicant for purposes of funding the planning project do not consist of in-kind contributions from the applicant or a vendor or private business that proposes to build, operate or provide retail services using broadband infrastructure constructed pursuant to the planning grant, pursuant to 35-A MRSA §9217(4);
 - h. a description of community support for broadband expansion in the form of letters or testimonials;
 - i. the estimated number of customers who currently have access to broadband service within the proposed project area;
 - j. the estimated number of unserved customers who could be served by expanded broadband infrastructure;
 - k. a description of the contact that the applicant has had with any incumbent service provider(s) in the community regarding current or impending plans for broadband infrastructure expansion; and
 - l. a description of any prior applications by the communities within the area of the grant application, either jointly or individually, for community planning grants.
4. **Planning Grant Evaluation process.** The Authority shall provide grants for planning projects to municipalities, groups of municipalities or nonprofit local or regional community economic development organizations to develop plans to expand the availability of broadband service in accordance with the following provisions:
- a. The authority shall score each application using the following scoring categories:

- i. **Community Support.** The community support score is based on relevant factors, including, but not limited to, the scope of participation by residents of each affected community in the application process and the amount of economic support to be provided by members of each affected community.
- ii. **Project Focus.** The project focus score is based on the degree to which the application proposes a project that is likely to produce the required results set forth in 35-A MRSA §9217(1).
- iii. **Project Preparation.** The degree of completeness with which the applicant has provided the required information set forth in subsection 3.
- iv. **Financial Commitment.** The amount of financial support to be provided by members of each affected community.

The Authority must ensure that community broadband planning grants are equitably distributed throughout unserved and underserved areas of the state and that the grants encourage collaboration between multiple communities.

The authority may fund up to 25% of the total award amount upon the granting of an award, subject to recapture by the Authority in the event of failure to successfully complete the grant. Full payment shall be awarded upon successful completion of the grant as set forth in subsection 5.

The Authority shall make all plans developed using grant funds available on the Authority's website.

5. **Project Completion and Evaluation.** A project will be considered successfully completed and eligible for final payment only if it complies with the following provisions.
 - a. **Infrastructure Grants**
 - i. Projects that have received grant approval must be completed within one year of receipt of funds from the Authority or within 180 days of all licenses and permits or governmental approvals necessary to complete the project, whichever later occurs, unless a waiver is granted by the Authority due to unforeseen circumstances; and
 - ii. Within one year of receipt of funds from the Authority or within 180 days of all licenses and permits or governmental approvals necessary to complete the project, whichever later occurs, the recipient must submit a report demonstrating completion, or in the case of a project that has been granted an extension of the one-year time period for completion, a report of progress. Such report must include an itemization of costs for which the

Authority's funding was used as well a description of the service that has been created through use of the funds.

b. Planning Grants

- i. Planning projects that have received grant approval must be completed within one year of funding unless a waiver is granted by the Authority due to unforeseen circumstances; and
- ii. Upon the date of completion, the recipient must submit a report with sufficient detail to allow the authority to determine whether the Plan generated by the project complies with 35-A MRSA §9217(1) as follows:
 1. Define local broadband needs and goals;
 2. Inventory existing broadband infrastructure assets within the community or region;
 3. Include a gap analysis defining the additional broadband infrastructure necessary to meet identified needs and goals;
 4. Include one or more potential network designs, cost estimates, operating models and potential business models based on input from broadband providers operating within the community or region; and
 5. Include an assessment of all municipal procedures, policies, rules and ordinances that have the effect of delaying or increasing the cost of broadband infrastructure deployment.

The authority will provide final funding for only plans that comply with the provisions of 35-A MRSA §9217(1)

6. **Project Completion and Evaluation.** Projects that have received grant approval, including planning projects, must be completed within one year of receipt of funds from the Authority or within 180 days of all pole licenses and permits or governmental approvals necessary to complete the project, whichever later occurs, unless a waiver is granted by the Authority due to unforeseen circumstances. Within one year of receipt of funds from the Authority or of all licenses and permits or governmental approvals necessary to complete the project, whichever later occurs, the recipient must submit a report demonstrating completion, or in the case of a project that has been granted an extension of the one-year time period for completion, a report of progress. Such report must include an itemization of costs for which the Authority's funding was used as well a description of the service or the planning study that has been created through use of the funds.

7. **Infrastructure Grant Tracking.** For any grants awarded by the Authority for infrastructure deployment project, the grant awardee shall, annually for 5 years from the date of the grant award, provide the Authority data on the infrastructure deployment project that includes the:
- a. The number of households within the project area that did not have access to broadband service;
 - b. The percentage of households in the project area that subscribe to broadband service from the grant awardee that is below the effective broadband service level set by the Authority;
 - c. The percentage of households within the project area that subscribe to broadband service from the grant awardee that is at or above the effective broadband service level set by the Authority;
 - d. The broadband option from the grant awardee subscribed to by the largest number of customers in the project area;
 - e. The price and speeds for the following services:
 - i. The broadband offering with the lowest annual cost;
 - ii. The broadband offering with the highest upload and download speeds; and
 - iii. The broadband offering taken by the greatest number of subscribers within the project area;
 - e. The number of businesses that take service from the grant awardee in the project area; and
 - g. The total number of businesses in the project area.

Information collected under this subsection shall be considered confidential pursuant to 35-A MRSA §9207. The Authority shall aggregate the data on an annual basis and include aggregated information as deemed appropriate by the Authority in its annual report.

§ 7 **ConnectME FUND**

- A. **Assessment.** The statutory assessment is imposed on the value of the following:
1. All retail revenues received or collected from communications services provided in Maine.
 2. All retail revenues received or collected from mobile communications service providers that voluntarily agree to be assessed by the Authority.
 3. Beginning January 1, 2020, a surcharge of 10¢ per line or number per month is assessed and collected on a monthly basis. If the communications service provider

recovers the amount from its customers, it shall identify this surcharge on each customer bill as "ConnectME – Statewide Broadband" and indicate that the funds are collected for use in the ConnectME fund."

- B. **Additional Funds.** Any additional funds the Authority collects pursuant to 35-A M.R.S. Chapter 93 shall be paid into the ConnectME Fund to be used for the purposes authorized by statute and in accordance with this Chapter.
- C. **Fund Administrator.** The Authority will contract with an appropriate independent fiscal agent to serve as the Fund Administrator. The administrator will establish the time and procedures for payment after consultation with the Authority.

§ 8 WAIVER OF PROVISIONS OF CHAPTER

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Authority may, for good cause, waive any of the requirements of this Chapter that are not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or 35-A M.R.S. Chapter 93.

STATUTORY AUTHORITY: 23 M.R.S. §3360-A; 35-A M.R.S. §§ 9201-9218.

History

EFFECTIVE DATE: This chapter, a major substantive Final Adoption (filing 2007-228), was approved as to form and legality by the Attorney General on May 30, 2007. It was filed with the Secretary of State on May 30, 2007 and becomes effective on June 29, 2007.

EFFECTIVE DATE: This chapter, a major substantive Final Adoption (filing 2019-091), was approved as to form and legality by the Attorney General on May 31, 2019. It was filed with the Secretary of State on May 31, 2019 and became effective on June 30, 2019.