

1-29-2010

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Recommended Citation

ConnectME Authority, "ConnectME Authority Meeting Notes - January 29, 2010" (2010). *ConnectME Authority Meetings*. Paper 45.
http://digitalmaine.com/connectme_meetings/45

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ConnectME Authority

January 29, 2010 – Meeting Notes

I. Introductions

Authority Members: Jean Wilson, Dick Thompson, Mitch Davis,
PUC Chair Sharon Reishus

Staff: Phil Lindley, Kelly Arata

II. Three Ring Binder – Status Update

Dwight Allison, Maine Fiber Company distributed maps showing the Three Ring Fiber network diagram and gave an update to the Authority on progress to date. Important points:

- An application to NTIA regarding the Three Ring Binder Project was completed but granted to GWI. A transfer to Maine Fiber Company is in the works.
- Some of Maine Fiber Company principals include Dwight Allison, Bob Monks, and Josh Broder. The company will make a \$6.5 million private investment in this project. GWI is not an investor or on their Board of Directors. Mr. Allison was on GWI's Board but resigned. There is no representative from the State of Maine on their Board.
- An advisory board will be formed to make nonbinding recommendations to the Maine Fiber Company.
- It will take 3-5 years to build the Three Ring Binder Project. However, the Brunswick-Bath line is anticipated to be completed by June 2010.
- The grant application states that you cannot provide more than 20% of the total capacity to any one carrier.
- Pledges that were made include open and nondiscriminatory access as well as pricing listed on their website. The federal government can also take over the project if it does not live up to the grant.
- The project will pass by 38 state facilities, including the courts, as well as 36 local schools and libraries plus pass through 100 Maine communities.
- The Maine Fiber Company is not a public utility so they do not have the right to attach their lines to a utility pole without authorization. The state statute needs to change so that they can have pole attachment rights.
- An issue has been raised regarding the taxability of the grant through the U.S. Internal Revenue Service. The Maine Fiber Company is working on getting this issue resolved with the Maine Congressional Delegation and with NTIA.
- Outreach includes meetings with telecom carriers and construction contractors as well as development of their website (www.mainefiberco.com) and a potential contact list.

- The Maine Fiber Company would like assistance from the Authority regarding educating people who they are and who they are not as well support on the pole attachment legislation.

Mitch Davis asked if there were other issues besides the taxation issue. Mr. Allison stated that they are trying to piggyback on the Smart Grid grant and electric companies. Sharon Reishus stated that they can help on this issue and encouraged them to work with other grantees. It is an open question now.

Mitch Davis asked about pole attachment rights. Josh Broder stated that there are eight others working on this issue. Mr. Davis wanted to know if they were asking for a support letter. Mr. Broder stated not necessarily asking for letter of support but just asking for support.

Jean Wilson asked when the tax issue needed to be resolved. Mr. Allison thought that it would be great if the issue could be taken care of now but knows that this is unrealistic and could be an unknown for awhile.

Dick Thompson asked what the relationship would be between the university, carriers, and the state sites. Mr. Allison stated that large institutions, such as LL Bean and the University of Maine, could complete an RFP. The project has 288 strands of fiber available. The relationship with the University of Maine would be a dark fiber relationship. Phil Lindley also stated that LL Bean would have to light it themselves or contract with a carrier to light it up.

Tom Federle on behalf of Time Warner Cable asked if there is an issue of room on the pole. Mr. Allison stated that Maine Fiber Company could get the right as a CLEC but would prefer not to do that. Once you have pole attachment rights, the provider will determine if there is room and could put in a taller pole. The most expensive is the Make Ready part.

III. Sewall Company Presentation - Update

Phil Lindley stated that Sewall Company is the contractor for mapping the grant award and we now have significant reporting requirements. Staff is drafting an RFP for the planning piece of the grant award.

Jim Page from Sewall Company stated that they plan to provide regular updates as part of the ConnectME Authority meetings. The grant award was for 5-years from January 1, 2010 to December 31, 2014. However, only the first two years are funded for mapping (\$1,348,500) plus five for broadband planning (\$436,000). The NTIA schedule includes six-month delivery cycles (March and September) and data requested from service providers twice a year. Sewall Company will transition to state staff in 2012.

Phil Lindley will continue to do nondisclosure agreements (NDA) and data calls to providers. Jim Page further stated that he is talking with 61 entities right now but that the final list could be 40. There are 31 that have NDA packages, 16 are completed and two are in the mail.

Jim Page stated that one data verification method will use download and upload speeds acquired through a speed test at <http://connectmespeedtest.maine.gov>. It was noted that this is just the beginning of the process. Randy Claar went through an example noting that it has to be “Flash” compatible. Mitch Davis wanted to know who is choosing to use flash. Mr. Clair stated that it was their decision and noted that they used a prominent company in Montana. Mitch Davis wondered if there was oversight. Phil Lindley stated that the ConnectME Authority acquired a license for it and we asked Sewall Company to find an existing quality speed test. Mitch Davis stated that the ConnectME Authority needs oversight over this project. Randy Claar stated that this map is for their verification and noted that there is a whole series of other sources from service providers. Mr. Davis further stated that there needs to be a process going forward to look at the technology used. Fletcher Kittredge stated that the Advisory Council should have a role and noted that there could be a concern if this information is used to make decisions as the information could be skewed. Randy Claar reiterated that this is only one tool. Jim Page stated that the purpose is not to drive policy. Phil Lindley stated that NTIA requires data verification and noted that other states use this tool. Randy Claar noted that they are geocoding the address acquired from the speed test not the IP address. Jean Wilson wanted to know what a credible result is. Randy Claar stated that this was only one tool and that they do not have an exact number yet.

Jean Wilson asked how we were getting the word out. Jim Page stated that they have had discussions with MMA, service providers and others. Phil Lindley stated that we would send to our distribution list.

Jim Page stated that there were challenges, such as inconsistencies in federal definition and having sufficient participation from the service providers, to meet project goals. Jim McKenna, RedZone Wireless, asked if there were funding set asides for service providers. Mr. Claar stated that there were no funds available. Phil Lindley stated that NTIA refused to attribute any funds to service providers. However, Mr. Lindley stated that he would check further.

IV. ConnectME Advisory Council - Update

Phil Lindley provided the Authority with draft notes from the Advisory Council's review of issues that the Authority previously discussed.

Fletcher Kittredge, Advisory Council Chair, stated that the Advisory Council's meeting was well attended. However, consumers and grantees are not showing up. The composition of the Advisory Council should be reviewed. In regards to

the length of the grant conditions, Phil Lindley should have the Authority's decision before the next grant award. Dick Thompson asked if this pertained to where incumbents have been involved and potential overlap. Phil Lindley stated that grant conditions could pertain to all grants or where an incumbent has noted that there is potential overlap. Mr. Kittredge stated that the law as written is inconsistent with applying to all grants. Tom Federle on behalf of Time Warner Cable stated that it is fair to incumbents if there is a pre-application letter as this gives them time for an agreement between the applicant and the incumbent. Mr. Federle further noted that the Authority could approve with conditions if no length is stated in an agreement. Interested parties could always challenge the decision. It would be best to keep it relatively simple.

Ben Sanborn from the Telephone Association of Maine stated that the facilities should be used only in areas in the application project.

Fletcher Kittredge understands that there should be less administrative burden for the Authority and for the grantees. He had suggested three years for the length of the grant condition but some thought five years was best. Mitch Davis stated that they could still negotiate down the years. Reggie Palmer stated that the Advisory Council wanted to keep it simple and encourage people to work together. Jean Wilson wanted clarified that the Advisory Council recommended five years. Mr. Palmer's answer was yes. However, no one is happy about it but the number is a reasonable compromise.

Jim McKenna from RedZone Wireless was concerned about the affordability factor. Mr. McKenna knows that the Authority wants to get broadband out to many Mainers so recommends that the Authority look at "passings" and have a shorter time such as one year. In addition, Mr. McKenna believes that challenges will become greater and grow. Mitch Davis stated that he has talked to people and found that wired providers are better utilized, not fixed-wireless. Mr. McKenna stated that it depends on the demographic. Affordability is a big issue.

Mitch Davis thought that one to three years is good but that five years is too far out there.

Dick Thompson made a motion that the default would be a five-year grant condition if the incumbent provider has been identified and if a negotiated time length is not reached. Mr. Thompson further stated that the existing providers want some degree of comfort and noted that five years generally would have equipment depreciated. Mitch Davis stated that he disagrees as there has not been enough thought yet. An Advisory Council member thinks that the Advisory Council needs more discussion on this issue. He is an investor and noted that the five years is a big barrier. Dick Thompson and Jean Wilson voted in favor of the motion. Sharon Reishus and Mitch Davis voted against the motion. Therefore, the motion fails.

Fletcher Kittredge stated that there is an equal opportunity to speak at the meetings of the Advisory Council. The Advisory Council consists of 12 providers and a member from the Office of the Public Advocate. Phil Lindley stated that the Advisory Council could meet within the next month.

V. Fourth Grant Round Pre-Applications Letters

Phil Lindley gave an update on the fourth grant round pre-application letters. There is an interest and a need for funds. He will notify incumbent providers. Susan Corbett from Axiom Technologies provided information on Axiom's Eastbrook grant from the Third Round and wants to roll it into the Fourth Round.

Susan Corbett stated that Axiom Technologies has withdrawn its grant award for the Town of Eastbrook. Axiom would like to apply the grant award to its Gouldsboro grant. Therefore, Axiom Technologies is looking for an additional \$105,000. Phil Lindley stated that Axiom would need an Order from the Authority. The Authority cannot cancel the Eastbrook grant until the Gouldsboro grant is award or Axiom could hold the Eastbrook award as a credit. Ms. Corbett stated that Axiom has already purchased the tower. Phil Lindley stated that the Authority could cancel the part of the Eastbrook grant that is unpaid and apply the \$23,000 already paid to any successor grant that Axiom receives.

Sharon Reishus wondered if this would be a precedent or whether it is a rule. Phil Lindley stated that they would have to outright cancel the award grant. Dick Thompson stated that the Authority needs to figure out how to handle this request. He knows that a tower was purchased and is lying on the ground. Phil Lindley stated that Axiom needs authorization. Dick Thompson recommended cancelling the remainder of the grant first and Axiom could use the tower in a Fourth Round grant award.

Dick Thompson made a motion to cancel Axiom's Eastbrook grant award and allow the paid amount to apply to a future grant if awarded. All members present voted in favor.

Phil Lindley stated that the Authority received 16 pre-application letters that totals \$1.3 million. This amount is more than what the Authority has earmarked for the Fourth Round Grant Awards. Mitch Davis noted that some companies appear to have a lot of grants and wondered if they could finish all those projects. Phil Lindley stated that he would post the pre-application grant companies on the Authority's website.

VI. Executive Director's Report

Phil Lindley provided information on:

- Effective February 1, 2010, the Office of Internet Technology will have a ½ full-time employee will be assigned to the Authority as staff to assist in administering the mapping grant.
- A brief update on the status of two legislative bills (LD 1646 and LD 1697). Hearings were held and work sessions to follow.

VII. Public Comment

Karl Beiser, who has a technology blog, asked if LD 1646 would have any implications on the Three-Ring Binder project. Fletcher Kittredge hopes for a negotiated agreement.