

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

January 13, 2004

MAINE PUBLIC UTILITIES COMMISSION
Maine Telecommunication Education Access
Fund

PROCEDURAL ORDER
(Opportunity to Comment)

I. Summary

The Commission recently received two requests for the use of funds from the Maine Telecommunications Education Access Fund (MTEAF). The Commission seeks comments from interested persons on these requests as described below.

II. Maine Learning Technology Initiative

On December 17, 2003, the Commission received a request from the Department of Education for \$2.25 million to support the Maine Learning Technology Initiative (MLTI) for fiscal year 2004 (Attachment 1). The Commission, by Order issued on September 14, 2001, agreed to provide such support from the Maine Telecommunications Access Fund (MTEAF). The Order stated that the MTEAF would provide up to \$9 million in funding over a four-year period, capped at \$2.25 million per year.

By Order issued on December 5, 2002, we directed transfer of \$2.25 million from the MTEAF to the MLTE to support the initiative in fiscal year 2003. We found that providing these funds was consistent with the Legislative directives in Public Laws 2001, Chapter 358, Section II-7 (4) and 2001, Chapter 559, Section LL (See 2002 Order at www.state.me.us/mpuc/orders/2001/2001-223o5.htm).

The language in Section LL requires that at least \$2 million in the MTEAF (in addition to funds collected annually from telecommunications carriers) be used for purposes other than MLTI and the digital library (authorized by P.L. 2001, ch. 522). In its 2002 Order the Commission noted that in approving \$2.25 million for FY 2003 it was not compromising its ability to meet the obligation in Section LL, as over \$2 million remained available in the Fund for other purposes. The Commission noted that such assurances could become more difficult in the future unless additional funds became available from other sources, such as Federal E-Rate.

As of January 2004, the MTEAF has a balance of \$2,172,338. E-Rate applications for 2002 and 2003 of approximately \$3 million for each year remain under review by the School and Library Division (SLD) of the Universal Service Administrative Company (the Federal Communication Commission's contractor for administering the Federal E-Rate program). If SLD approves these E-Rate applications, sufficient funds will exist to provide the \$2.25 million requested, consistent with other legislative

mandates. However, the timing of the awards remains unknown (although the review process for 2003 is substantially complete).

The Commission invites comments on whether it should approve the request and/or condition approval on the receipt of E-Rate funding. Because there is often a lag in the awarding of funding, the Commission requests comments on whether the MTEAF should maintain a balance of at least \$1 million (or some other amount) to cover current expenses (which will eventually be reimbursed by Federal E-Rate).

III. State Library Request

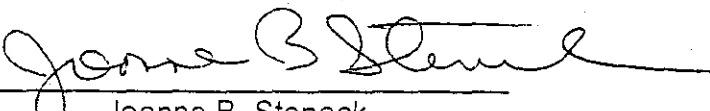
On December 29, 2003, the Commission received a request from State Librarian Gary Nichols concerning libraries that choose not to accept Federal E-Rate for Internet service due to their view that Federal filtering requirements are inconsistent with freedom of access to information principles and that such filtering decisions should be a local decision (Attachment 2). For FY 2004, Internet access costs \$140 per month. It is expected that Federal E-Rate will pay approximately 60% of this cost and MTEAF will pay the remaining portion. Mr. Nichols proposes that the Commission continue to provide MTEAF funds for 40% of the monthly charge of \$140 with the library assuming ^{42%} half of the remaining 60% and MTEAF covering the other half. If all 260 libraries chose this option, it will cost the MTEAF fund an additional \$131,040 over what would typically be expended to support Internet access (\$174,720) for libraries. The State Library is willing to collect the payments from libraries and remit them to the MTEAF Administrator. The Commission seeks comments on whether to make these additional expenditures. The Commission also requests comments on whether this arrangement meets the 35-A M.R.S.A. § 7104-B(6) requirement that schools and libraries shall apply for any available Federal discounts.

IV. Filing Comments

Notice of this opportunity to comment will be posted on the Commission's website and mailed to persons who have previously commented in this Docket. Comments may be submitted, either by mail to the Maine PUC, 18 State House Station, Augusta, ME, 04333-0018; or by e-mail to maine.puc@state.me.us, by January 30, 2004. Commenters may also file comments using the Commission's Electronic Filing system, accessible at <http://www.informe.org/puc/upload.html>.

Dated at Augusta, Maine, this 13th day of January, 2004.

BY ORDER OF THE PRESIDING OFFICER


Joanne B. Steneck



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF EDUCATION
23 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0023

SUSAN A. GENDRON
COMMISSIONER

December 17, 2003

Chairman Welch, Commissioner Diamond, Commissioner Reishus
Maine Public Utilities Commission
18 State House Station
Augusta, ME 04333

RECEIVED
2003 DEC 23 AM 8:30
MAINE PUBLIC
UTIL. COMM.

Dear Chairman Welch and Commissioners Diamond and Reishus:

Please accept this letter as a request by the Department of Education for \$2.25 million to support the Maine Learning Technology Initiative (MLTI) for Fiscal Year 2004. The Commission, by order issued on September 14, 2001, agreed to provide such support from the Maine Telecommunications Access Fund, and the Commission did provide this support in Fiscal Year 2003.

As the Department continues to implement MLTI for Maine's 7th and 8th grade students and teachers, the cost structure of the program, specifically those costs related to the "external and internal network connections and technical support" remain consistent with those outlined by former Commissioner Duke Albanese in his letter to the Commission on November 27, 2002, please see below:

- Approximately 25% of the Apple project management oversees the network deployment, back-up servers, and software. In FY04 this will equal \$80,000.
- Training dollars of \$100,000 paid for a series of 2-day workshops for all 8th grade teachers and new 7th grade teachers with the primary purpose of providing initial technical support on the use of the laptops and networks.
- Support and spares costs of \$132,000 to provide back-up computers to replace laptops out for repair.
- Network/storage costs of \$496,000 provides for the wireless hubs, network switch in each school and ongoing cost of remote servers.
- Software costs of \$328,000 provide for the additional software licenses needed to back-up teacher and student work to the remote servers. The cost of the anti-virus software to protect the network is also included.
- AppleCare expenses of \$2,000,000 include the help desk and the repair of laptops due to defects beyond the normal warranty period.
- Each laptop includes a wireless network card necessary to access the internal wireless network installed in each school with this program. The card costs \$5.69 per device per quarter. Thus, for FY04, \$846,626.50 of the \$7,408,000 spent on

OFFICES LOCATED AT THE BURTON M. CROSS STATE OFFICE BUILDING
PHONE: (207) 624-6600

FAX: (207) 624-6700

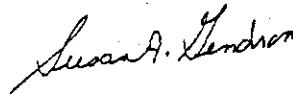
AN EQUAL OPPORTUNITY EMPLOYER
TDD: (207) 624-6800

devices will provide for wireless cards that enable the functionality of the internal networks.

I have also included an updated copy of the projected payments due to Apple for services and devices over the term of our agreement (Attachment A). You will see that the costs related to AppleCare have risen from last year's projection and this reflects an increased number of laptops in Maine due to a higher than expected student enrollment. Also, attached is an updated breakdown of eligible expenditures for Fiscal Year 04 and projected expenditures eligible for support from the Maine Telecommunications Access Fund over the following two years (Attachment B).

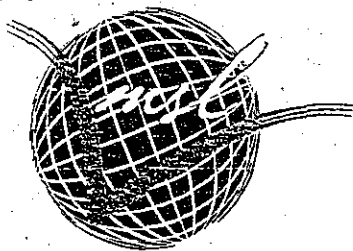
If you would like more information on these costs, please contact Tony Sprague 624-6777. I would be happy to discuss any issues or questions you may have. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script, reading "Susan A. Gendron".

Susan A. Gendron
Commissioner of Education

Com
Stenecker
Lindley
Sru Ist
Case file
2001-28?



MAINE STATE LIBRARY

Cultural Building • 64 State House Station • Augusta, Maine 04333-0064
207-287-5600 • Fax 207-287-5615 • TTY 287-5622 • www.state.me.us/msl

STATE LIBRARIAN
J. Gary Nichols

RECEIVED
2003 DEC 29 A 9 16
MAINE PUBLIC
UTIL. COMM.

December 24, 2003

Thomas Welch
Chairman, Maine Public Utilities Commission
242 State Street
Augusta, Maine 04333

Dear Chairman Welch:

As you know Maine's public libraries are in a unique situation regarding compliance with the *Children's Internet Protection Act (CIPA)*. In order to benefit from the Maine Telecommunications Educational Access Fund, 35-A MRSA Section 7104-B #6 states that "Qualified schools and qualified libraries shall apply for any federal discounts available pursuant to the federal Telecommunications Act of 1996." In order to meet this requirement and receive federal e-rate support, schools and libraries must comply with CIPA which calls for local installation of "technology protection measure(s)". Pragmatically this mandates filtering in each school and library.

Maine public libraries operate on freedom of access to information principles. For example the Maine Library Association issued the following in regard to filtering:

"... filtering devices block access to constitutionally protected speech and prevent library users from accessing materials they determine to be most suitable for themselves. Their use also comprises violation of the Library Bill of Rights. Therefore, the Maine Library Association does not recommend the use of Internet filters in libraries and opposes attempts by federal and state governments to mandate their use. The Association asserts that information access policy should be decided by local library boards and administrators."

Libraries in economically challenged areas of Maine are most impacted by this dilemma as they have to choose between violating the principle of freedom of access or giving up Internet connectivity which they can not afford on their own. Even though libraries do have the option of turning filtering off, in many libraries this presents staff challenges to already understaffed institutions. Seeking relief for public libraries by changing the current wording of the MTEAF legislation is another possible option. However, the difficulties facing the legislature during the next session will likely make this strategy futile.

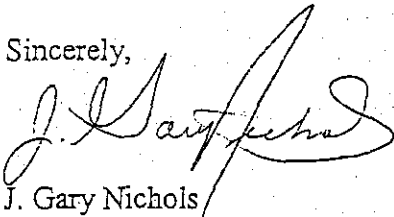
Welch
December 24, 2003
Page 2

If upheld by the State, the new Internet Service Provider contract (July 1, 2004-July 5, 2005) will charge a monthly fee of \$140 per site. MTEAF will continue paying 40% of this for the libraries that qualify by applying for e-rate support for MSLN connectivity.

Currently 260 public libraries do so. If this federal e-rate gap were to be fully funded by the MTEAF at \$84 per site, the cost per year would be \$262,080. However, knowing that this would strain the resources available through the fund, we are asking for support equivalent to 50% of the lost federal revenue with the other 50% to be paid locally. This amount of \$42 per site per month totals \$131,040 annually. In order to relieve any administrative burden, the Maine State Library is willing collect the local contribution through its business office and then turn this money over to the fund administrator.

As always we appreciate your consideration of this critical request.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Gary Nichols", with a stylized flourish at the end.

J. Gary Nichols

cc: Joanne Steneck
Phil Lindley
Elizabeth Moran, Chair, Maine Library Commission

January 23, 2004

MAINE PUBLIC UTILITIES COMMISSION
Maine Telecommunication Education Access
Fund

PROCEDURAL ORDER
(Opportunity to Comment)

I. Summary

In this Procedural Order, the Commission seeks comments on a recent request from the Board of Trustees of the University of Maine System (UMS) for funding from the Maine Telecommunication Education Access Fund (MTEAF) to purchase access to electronic databases.

II. Description Of Request

The Commission received a letter¹ from UMS on January 15, 2004 requesting \$510,000 for Fiscal Year 2004 and \$520,000 for Fiscal Year 2005² to continue providing access to electronic databases, statewide. The letter explains how UMS has purchased access to over 7000 magazines and journals (and indexing for thousands more), 500 news sources, Britannica Online and additional business resources during the last two years. Usage of the databases by the public and students has increased in each of the past three years.

MTEAF provided funding for access to these databases in FY 2002 and FY 2003 as required by Public Law 2002, Chapter 522. The law was silent as to funding in years beyond 2003. However, the law also amended Title 35-A M.R.S.A. § 7104-B to allow the MTEAF to be used to fund "content" (as well as telecommunication services, internet access, internal connections, computers and training). 35-A M.R.S.A. § 7104-B(4)(F). It also added a guideline for funding: "To provide for electronic database content to be used for the purposes of accessing information by schools and libraries." 35-A M.R.S.A. § 7104-B(5)(H). Therefore, it appears that purchasing access to the databases described by UMS in its request is eligible for funding under MTEAF.

¹ The letter which can be viewed at the Commission's virtual case file at <http://mpuc.informe.org> by entering the Docket No. 2001-223.

² The Commission requests that UMS explain why it is requesting \$510,000 and \$520,000 when the attachments to its letter appear to show a contribution from MTEAF of \$500,000 for each year.

III. Availability of Funds

The Commission's primary focus has been on providing all schools and libraries with a sufficient connection to the Internet. Most MTEAF spending authorized by the Commission is for that purpose. The Commission currently has two other requests for funds pending: from the Department of Education Maine Learning Technology Initiative for \$2.25 million for FY 2004 and from the State Library for \$174,720 to support Internet connections for libraries choosing not to accept Federal E-Rate funds due to filtering requirements.

On January 13, 2004, the Commission issued a procedural order seeking comments on those requests. As explained in that order, as of January 2004, the MTEAF has a balance of \$2,172,338. Federal E-Rate applications for 2002 and 2003 of approximately \$3 million for each year remain under review by the School and Library Division (SLD) of the Universal Service Administrative Company (the Federal Communication Commission's contractor for administering the Federal E-Rate program). If SLD approves these E-Rate applications, sufficient funds will exist to provide the \$2.25 million requested, consistent with other legislative mandates. However, the timing of the awards of Federal E-Rate funding remains unknown.

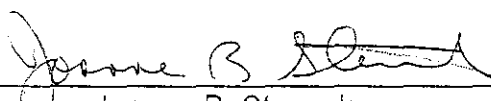
The Commission invites comments on whether it should approve the UMS request and/or condition approval on the receipt of Federal E-Rate funding. Because there is often a lag in the awarding of funding, the Commission requests comments on whether the MTEAF should maintain a balance of at least \$1 million (or some other amount) to cover current expenses (which will eventually be reimbursed by Federal E-Rate).

IV. Filing Comments

Notice of this opportunity to comment will be posted on the Commission's website and mailed to persons who have previously commented in this Docket. Any interested person may submit comments either by mail to the Maine PUC, 18 State House Station, Augusta, ME, 04333-0018; or by e-mail to maine.puc@state.me.us, by February 9, 2004. Commenters may also file comments using the Commission's Electronic Filing system, accessible at <http://www.informe.org/puc/upload.html>.

Dated at Augusta, Maine, this 23rd day of January, 2004.

BY ORDER OF THE PRESIDING OFFICER


Joanne B. Steneck

February 2, 2004

Ms. Joanne Steneck
Presiding Officer
Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, ME 04333-0018

RE: PUBLIC UTILITIES COMMISSION
Comments on Procedural Order for the
Maine Telecommunications Education Access Fund
Docket No. 2001-223

Ms. Steneck,

The following comments are submitted by the Library Directors of the eight University of Maine System Libraries on behalf of students and educators in the Maine educational community and the life-long learning society of Maine citizens.

We welcome this opportunity to comment on the request from the Board of Trustees of the University of Maine System for funding from the Maine Telecommunication Education Access Fund (MTEAF) to purchase access to electronic databases (Docket No. 2001-223). We view this process as an opportunity to build upon the Public Utility Commission's mandate of previous years that used MTEAF funding for access to databases in FY 2002 and FY 2003 (Public Law 2002, Chapter 522), and current authorization to use MTEAF funds "To provide for electronic database content to be used for the purposes of accessing information by schools and libraries" (Title 35-A M.R.S.A. § 7104-B amendment). The UMS Library Directors, on behalf of the Maine education community, urge the PUC to approve the UMS request for \$500,000 by June 30, 2004 and \$500,000 by June 30, 2005.

For over a decade the University Libraries have partnered with the Maine State Library to build a statewide network of library resources. Through the combined initiatives and resources of this partnership, Maine's citizens have access to the on-line requesting of books and journals from any Maine library. With funding support from the PUC, the partnership makes possible shared access to electronic full text databases for all Maine's citizens. We offer the following observations in support of approving the UMS request for MTEAF funds to continue statewide access to databases:

- By combining budgets the UMS Libraries and the Maine State Library allow the libraries to leverage their purchasing power. The collection of materials that the libraries agree to license together enhances access to library and information resources that support research, instructional and information needs for all Maine's citizens.

- The UMS Libraries and the Maine State Library with PUC support have realized an equitable, cooperative and cost effective manner to purchase digital information that does not live anywhere in particular and can be accessed from anywhere over the network.
- As of this writing we have procured through negotiated contracts 46 databases with full text access to millions of articles in 29,000 journals and newspapers, as well as full text works of poetry and literature, reference works, and other informational services (e.g. statistical reports, company financial and investment reports, business directories and encyclopedias). Half of the database subscriptions provide access to social, scientific and governmental resources. Citizens may also reference or check out 8000 electronic books, including the world's classics.
- Cost savings for Maine's libraries is in the millions of dollars (comparing the statewide licensed prices for all databases to the list prices, had individual institutions purchased the material separately). Without the statewide licensing program, access to these resources would not be possible for many Maine Libraries.

While our partnership with the State Library and the support of the PUC has made possible an extraordinary resource sharing program for Maine's citizens, without continued support, much of what has so far been achieved will be lost. Our core objective is the continuation and improvement of public electronic information resources for all Maine's libraries. We recommend approval of the UMS request for \$500,000 in fiscal year 2004 and \$500,000 in fiscal year 2005. While it is reasonable to maintain a balance in the MTEAF account to cover current expenses, and await federal E-Rate funding, we urge the PUC to consider allocating the fiscal year 2004 for \$500,000 immediately because of the way in which database journal subscriptions are negotiated in advance of usage. This plan would avoid a lapse in database subscriptions.

Sincerely,

UMS Library Directors

Tom Abbott, Dean of Libraries, University of Maine at Augusta
 Frank Roberts, Library Director, University of Maine at Farmington
 Sharon Johnson, Dean of Information Resources, University of Maine at Fort Kent
 William Wells, Jr., Library Director, University of Maine School of Law
 Evelyn Greenlaw, Director of Library, USM – Lewiston/Auburn College
 Bert Phipps, Library Director, University of Maine at Machias
 Joyce Rumery, Interim Library Director, University of Maine
 Greg Curtis, Library Director, University of Maine at Presque Isle
 David Nutty, Library Director, University of Southern Maine
 Susan Lowe, Assistant Dean, Off-Campus Library Services

URSUS Staff and other Participating Library Directors

Barbara McDade, Library Director, Bangor Public Library
 Lynn Randall, Library Director, Maine State Law and Legislative Reference Library
 Marilyn Lutz, Director of Library Information Planning, UMS Libraries
 Laura Gallucci, URSUS Library System Manager