

March 28, 2006

Honorable Philip Bartlett, Senate Chair
Honorable Lawrence Bliss, House Chair
Joint Standing Committee on Utilities and Energy
Augusta, Maine 04333

Re: LD 2080, An Act to Accelerate Private Investment in Maine's
Wireless and Broadband Infrastructure

Dear Senator Bartlett and Representative Bliss:

The Public Utilities Commission (Commission) takes a position neither for nor against LD 2080, An Act to Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure.

LD 2080 would establish an Advanced Technology Investment Authority (Authority) that is governed by a 5-member board that includes the State's Chief Information Officer, the Chair of the Commission and three members appointed by the Governor. The Authority would have the following responsibilities: (1) gathering and disseminating data concerning communications services in Maine; (2) assessing the availability and need for broadband and cellular services in unserved and underserved areas of the State and (3) identifying and securing funding sources for carrying out the Authority's responsibilities. Among other things, LD 2080 would authorize the Authority to expend up to \$500,000 of previously collected but unallocated funds in the Maine Universal Service Fund. The Commission would like to comment on two aspects of LD 2080.

I. Use of MUSF Funds to Support the Authority

Proposed section 9205 of LD 2080 would authorize the Authority to "expend up to \$500,000 from a transfer to the authority of previously collected but unallocated funds held by the commission pursuant to section 7104." Section 7104 governs the Maine Universal Service Fund (MUSF). A copy of section 7104 is attached to this testimony. Among other things, section 7104 requires the Commission to review the telecommunications needs of Maine's consumers and establish a level of support required to meet those needs. Section 7104 also authorizes the Commission to require providers of intrastate telecommunications services to contribute to the MUSF in an amount required to meet those needs.

The MUSF was set up to operate as a "pay-as-you-go" mechanism, with collections equal to required costs on a quarterly basis. Costs are known in

advance and include ILEC support payments, support for several public interest services and costs for a third-party fund administrator.

In recent years, the Legislature has allocated funding from the MUSF to support activities that it determined to be consistent with the purposes specified in section 7104. These activities include the communications equipment fund, support for telecommunications relay services, support for public-interest pay phones and support for rural health care (if enacted). As it did with these activities, the Committee should determine whether the activity authorized by LD 2080 is consistent with the goals of section 7104 before it determines that it is appropriate to expend funds from the MUSF for those purposes.

The MUSF currently has an over-collected balance of approximately \$800,000. This balance accumulated in late 2003 and early 2004 because, for several quarters, the former MUSF Administrator calculated the assessment without realizing that the support for some carriers had been reduced. The over-collection has gathered interest and the Commission has decided to “give the over-collection back” by offsetting the over-collection against increases in the assessment required by recently enacted legislation relating to the MUSF.

The Commission believes that the proposed use of \$500,000 of the over-collected amount to provide initial funding for the Authority is reasonable. However, it is important for the Committee to understand that this source of funding would be available on a one-time basis only and that once the current over-collection amount is exhausted, there will be no additional funds in the MUSF available to support the activities of the Authority without future action by the Commission or the Legislature. The MUSF assessment is calculated on a quarterly basis and is designed to produce the exact amount of money necessary to pay for the activities identified in section 7104 and funded through the MUSF. The over-collection described above was a one-time time event. There are no “previously collected but unallocated funds” in the MUSF on an ongoing basis. Consequently, the funds provided under proposed section 9205 of LD 2080 would be limited to the \$500,000 that happens to be currently available.

In the past, when the Committee has decided to use MUSF funds to support public services, section 7104 has been amended to specifically authorize the collection and expenditure. See subsection 7104(5) (support for the communications equipment fund), subsection 7104(6) (public-interest pay phone support) and subsection 7104(7) (telecommunications relay service support). If the Committee decides to use some of the over-collection amount to fund the Authority, the Commission recommends that specific authorizing language be added to section 7104. The Commission offers the following language for the Committee’s consideration:

7104(8). Advanced Technology Infrastructure. The commission may,

upon the request of the Advanced Technology Infrastructure Authority established under Title 35-A, chapter 93, transfer up to \$500,000 from the state universal service fund to the Advanced Technology Infrastructure Authority.

II. Staffing the Authority

The second aspect of LD 2080 that we would like to bring to the Committee's attention relates to the staffing provisions set forth in proposed subsection 9203(6) of the bill. Subsection 9203(6) provides that the Authority will be staffed by the equivalent of up to three full-time Commission employees.¹ The subsection further provides that "the salaries and costs of such staff must be allocated proportionately to the authority." The subsection does not indicate whether the staff support would come from existing positions at the Commission or whether new positions would be created at the Commission to support the Authority. The Commission believes it is possible to use existing Commission staff to support the Authority during its initial establishment period. But the Commission does not have sufficient current staff to permanently support all of the Authority's activities that are identified in LD 2080. Consequently, the Commission could support the Authority with existing staff during the initial implementation of the Authority's activities, but we would anticipate the need to hire at least two additional staff persons to support the Authority after its initial establishment stage.

The Commission would be happy to provide the support to the Authority provided for in LD 2080. The Commission estimates that the staffing costs associated with the Authority's initial establishment period would be between \$150,000 and \$200,000. The Commission would request a reimbursement of the Commission's Regulatory Fund from the Authority for such costs incurred by the Commission on behalf of the Authority during this establishment period.

I will be present at the work session on LD 2080 and will be pleased to work with the Committee as it considers this bill.

Sincerely,

Chris Simpson
Legislative Liaison

Attachment

cc: Members of the Utilities and Energy Committee
Jon Clark, Deputy Director, OPLA

¹ Subsection 9203(6) would also allow the Authority to "retain staff in addition to the staff designated and provided by the commission."