

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

H.P. 304 - L.D. 465

An Act To Eliminate the Broadband Sustainability Fee

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §9216, sub-§1, ¶¶A and C, as enacted by PL 2009, c. 612, §10, are amended to read:

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.

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 ~~on December 31, 2017~~ 90 days after the adjournment of the First Regular Session of the 127th Legislature.

Sec. 2. 35-A MRSA §9216, sub-§§2, 5 and 6, as enacted by PL 2009, c. 612, §10, are amended to read:

2. Broadband sustainability fee. ~~An~~ 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

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.

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. ~~All funds deposited in the broadband sustainability fund are deemed to be encumbered for purposes of subsection 6 at the time the funds are deposited in the fund.~~

6. Use of the broadband sustainability fund. The authority shall ~~provide incumbent local exchange carriers a right of first refusal to access~~ use funds in the broadband sustainability fund established pursuant to subsection 5 in accordance with this subsection to support and promote broadband service in unserved or underserved areas.

~~A. The authority shall allocate funds in the broadband sustainability fund established pursuant to subsection 5 to each incumbent local exchange carrier in accordance with this paragraph. Each month, the authority shall allocate to each incumbent local exchange carrier an amount equal to the total amount deposited that month into the broadband sustainability fund multiplied by a fraction, the denominator of which is the total number of miles of federally supported dark fiber leased, sold or used in this State during the previous month and the numerator of which is the total number of miles of federally supported dark fiber leased, sold or used in that incumbent local exchange carrier's service territory during the previous month. Any accumulated interest in the fund must be allocated proportionally. Only those amounts allocated to an incumbent local exchange carrier under this paragraph are available for disbursement to that carrier pursuant to paragraph B. By December 31st of each calendar year, the authority shall make an accounting of the total funds allocated during that calendar year to each incumbent local exchange carrier under this paragraph, and if by December 31st of the following calendar year some or all of those funds allocated to a carrier are not disbursed to that carrier in accordance with paragraph B, the authority shall transfer those unspent funds to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund under this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.~~

~~B. To receive a disbursement from the broadband sustainability fund established pursuant to subsection 5, an incumbent local exchange carrier must file with the authority a request for funds together with a certification indicating that the funds requested will be used to deploy broadband infrastructure in unserved areas within the carrier's service territory. The certification must include the projected cost for the project and the scope of work, which must indicate how the funds will be spent. Upon receipt of a request for funds accompanied by the required certification, the authority shall disburse the requested amount to the incumbent local exchange carrier up to an amount not to exceed the total amount allocated under paragraph A to the requesting carrier.~~

~~C. An incumbent local exchange carrier may not expend funds received under paragraph B in a manner inconsistent with the certification provided by the carrier under paragraph B. The authority may audit the use by an incumbent local exchange carrier of funds disbursed in accordance with paragraph B.~~

~~D. On the last day of the 12th month following the end of the 2nd assessment period, the authority shall transfer all funds remaining in the broadband sustainability fund established pursuant to subsection 5 to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund pursuant to this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.~~