

SOUTH CAROLINA EDUCATIONAL BROADBAND
SERVICE COMMISSION
Meeting Minutes
September 29, 2008

Opening:

The second regular meeting of the South Carolina Educational Broadband Service Commission was called to order at 1:00pm on September 29, 2008 at 1401 Senate Street, Room 213 by Gary Pennington. Mr. Pennington instructed the audience to register their name and email address on the sign-in sheet so that information on upcoming meetings could be emailed to them. He also informed the audience that Paul Koch would be setting up a webpage for viewing Commission information.

Members Present:

Neil Mellen, Jack Cooper, Gary Pennington, William Byrd, Dr. Joachim Taiber

Members Present Via Telephone:

George Wyatt

Staff Present:

Paul Koch, Gay Hoyer

1. Approval of Agenda

Mr. Byrd asked that two handouts be included in the Agenda (Add as Agenda Item 11):

- A K-12 Expenditure Report for Broadband
- Article on the Cost of WiMax

Gary Pennington asked for approval of the Agenda. A motion was made and all agreed.

2. Approval of Minutes of Previous Meeting

Gary Pennington asked for approved of Minutes of the Previous Meeting. Jack Cooper made a motion that the Minutes be approved and all agreed.

3. Overview of Legislative Charge

Gary Pennington wanted everyone to have a copy of the legislative charge. Mr. Pennington put the legislation in a word format, and separated out the issues and put captions on them. The wording was not changed, but this will make the document easier to read and understand since the Commission will refer to this document often. The primary charge for the Commission is “To use a competitive process to obtain proposals from commercial entities for the leasing of the excess spectrum capacity of the EBS Licenses held by the SC ETV Network.” The Commission has four options as how to receive these proposals, with a fifth option stating and “other manners deemed appropriate by the Commission.” The Commission must also consider whether to require or allow the leasing of State tower space. The Commission must consider the the costs

and benefits to the public in the process, consider different types of technology available, and is prohibited from imposing any pricing requirements. There is a competitive process outlined in the legislation and the Commission is exempt from the the procurement code. The Commission is required to give recommendations to the Joint Bond Review Committee which will review the recommendations and send them to the Budget and Control Board for approval. It is understood that ETV will cooperate in this process. The Commission will need to formulate a roadmap as to how to reach a decision as the legislation is unclear as to the process.

4. Overview of FCC Regulations and Orders Governing Transition:

A package of documents containing information supplied by Nancy Combs was distributed to the Commission by Gary Pennington. This information is for the Commission to review and was not discussed in detail. The following items were addressed in the documents: Federal Regulations that govern this process, the two FCC orders that are at issue and a letter sent to ETV from the Senate Staff seeking responses to certain key questions. The package also contained the response from ETV, a response from ETV's FCC attorney to the key questions asked by the Senate Staff, and plans filed by Clearwire to transition the 3 markets (Columbia, Rock Hill, Charleston) discussed at the last meeting.

- a. FCC Regulations.**
- b. FCC Orders.**
- c. Timelines.**

5. Update from South Carolina ETV Regarding:

David Crouch, Ray Sharpe and Dean Byrd of ETV presented and discussed the following items. Handouts, including licenses and maps of coverage areas, were provided.

- a. Overview of Licenses Held.** (67 licenses held)
- b. Overview of Specific Frequencies of Licenses.**
- c. Overview of Geographical Areas Licenses Cover.** (Coverage area of All Licenses)
(Coverage Area by Channel Group)
- d. Overview of Status of Any Transitions.** (Pre & Post Transition Spectrum Band Plans Analog and Digital) (BTAs in South Carolina- No transitions taking place).
There is a build out in Charlotte that affects 3 of our BTAs, the FCC says we cannot interfere with this build out. In order to comply we must either turn off or move our transition to the mid-band. We turned off the spectrum and were given \$1.9 million from Clearwire to get internet access to the schools in the affected area to receive the ETV transmission.
- e. Overview of the Licenses and Spectrum Capacity ETV Wishes to Preserve.** (ETV is required to keep 5% for Education, the other 95% may or may not be preserved depending on offers received for the spectrum capacity)
- f. Overview of Spectrum Capacity that ETV Does Not Wish to Preserve**

6. Discussion of Experts and/or Consultants Necessary to Assist the Commission in Accomplishing its Charge:

- a. FCC Legal Counsel.** (Likely a private practice attorney whose hiring must be approved by the Attorney General).
- b. Spectrum Auction/Sale Experts.**
- c. Spectrum Valuation Experts.**

d. Other Experts.

The legislation for the Commission does provide a budget for experts as well as a budget for legal counsel. The Commission will need to determine a method to procure the experts. It was decided that the following experts were needed:

- Someone with expertise in auction rules
- Someone with expert knowledge of the FCC
- Someone with market-place expertise
- Someone with technical expertise
- Someone with legal expertise familiar with FCC rules and regulations as it relates to leasing this type of spectrum.

The hiring of experts, consultants or legal counsel will need to be approved by the Executive Director of the Budget and Control Board. Paul Koch will work with the Commission regarding this approval. The Attorney General's Office will also need to approve the hiring of legal counsel.

7. Discussion of the Process to Identify the Experts and/or Consultants

The following Commission members will attempt to find experts and/or consultants in the corresponding fields. However, each Commission member can help with seeking out these experts:

- FCC Spectrum License Auction Professional – George Wyatt
- FCC Lawyer – Gary Pennington
- Technical Expert – Dr. Joachim Taiber
- Market and Value Expert – William Byrd

8. Federal Communications Commission Visit/Consultation.

It was decided that it would be beneficial for all or several of the members to meet with the FCC. The FCC Attorney should be the one to arrange a meeting with the FCC.

9. Discussion of Status of Technical Colleges' Leasing of Excess Spectrum Capacity:

Paul Koch contacted the Colleges and found out the current status of their lease negotiations.

- a. **Trident Technical College** – Is in the process of negotiating a contract with Clearwire.
- b. **Greenville Technical College** – Has not gone out to bid. The college has a new president and wants to discuss with him before they make any decisions.

The Commission would like to be able to work with the colleges before they make their final decisions. There may be a benefit to working together with the colleges to negotiate a better deal. Neil Mellen, who has dealt with the colleges, feels that they may be sympathetic to working with the Commission but with caution and reservations. Neil will approach the colleges as to their willingness to meet with the Commission to discuss options.

10. Review of other States' Actions with Regard to Lease of Excess Spectrum Capacity.

The Commission discussed and decided that research should be done to find out how other states have handled the lease of excess spectrum capacity. It was decided that this would be an action item for Gary Pennington and his staff.

11. K-12 Expenditure Report for 2007-2008 / Article on Cost of WiMax

The K-12 report and news article were distributed to members and became part of the Agenda.

The K-12 report reflects an upward increase in expenditures for broadband in the schools. The article in the State Paper discussed Baltimore's WiMax Network and general information on what they are charging.

Jack Cooper proposed the idea that South Carolina may be in a unique situation to contact Google or Microsoft about doing business with the State in regards to the extra bandwidth. The Commission may consider sending them an "RFP."

Adjournment:

Gary Pennington adjourned the meeting. The next meeting date TBD will occur sometime during the week of October 13th.