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STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
COMMITTEE ON ENERGY, UTILITIES AND TECHNOLOGY

TO: Senator Roger J. Katz, Senate Chair
Representative Anne-Marie Mastraccio, House Chair
Government Oversight Committee

FROM: Senator David Woodsome, Senate Chair *aw*
Representative Seth A. Berry, House Chair *sb*
Joint Standing Committee on Energy, Utilities and Technology

Date: March 26, 2018

Re: Review of the Maine Municipal and Rural Electrification Cooperative, ConnectME Authority, and Efficiency Maine Trust pursuant to 5 MRSA §12023(3)

We are pleased to report the results of the Joint Standing Committee on Energy, Utilities and Technology’s (Committee) review of the Maine Municipal and Rural Electrification Cooperative Agency, ConnectME Authority and Efficiency Maine Trust as required, pursuant to Maine Revised Statutes Title 5, section 12023, subsection 3.

Maine Municipal and Rural Electrification Cooperative Agency

The Maine Municipal and Rural Electrification Cooperative Agency (MMRECA) has not yet exercised its statutory authority under the enabling law and no funds have been expended by the MMRECA. At this time, the MMRECA does not have any policies in place regarding the selection of vendors, contributions, and travel, meals and entertainment. In its report submitted pursuant to 5 MRSA, section 12023, subsection 2, the MMRECA has indicated that if in the future it exercises its statutory authority, it would put policies in place prior to taking any actions.

ConnectME Authority

Selection of Vendors

The ConnectME Authority follows the “Purchasing Policy and Operations Manual” of the Department of Administrative and Financial Services for its policies and procedures with respect to the selection of vendors and contributions. Existing state law and the written policies and procedures for the selection of vendors are generally consistent with the requirements established in 5 MRSA, section 12022, subsection 3, although it is not entirely clear from the materials submitted by the ConnectME Authority that written justifications and evidence of approvals are

maintained on file for five years for procurements exceeding \$10,000 that were not competitively procured. Based on the annual reports submitted by the ConnectME Authority in 2017 and 2018 pursuant to 5 MRSA, section 12023, subsection 2, the ConnectME Authority has not had any procurements exceeding \$10,000 for which a competitive procurement was waived.

Contributions

As stated above, the ConnectME Authority follows the “Purchasing Policy and Operations Manual” (manual) of the Department of Administrative and Financial Services for its policy and procedures with respect to contributions. It is unclear from the materials provided to the Committee if the written policies and procedure for contributions are generally consistent with requirements established in 5 MRSA, section 12022, subsection 4. The manual contains some requirements related to the payment of dues and subscriptions, but those requirements do not necessarily align with 5 MRSA, section 12022, subsection 4. In its annual reports submitted in 2017 and 2018, the ConnectME Authority indicated that it did not make any contributions greater than \$1000 in the preceding year.

Travel, Meals and Entertainment

The ConnectME Authority follows the “State Administrative & Accounting Manual” of the Office of the State Controller for its policy and procedures with respect to travel, meals, and entertainment. (The manual the ConnectME Authority follows does not allow for entertainment expenses.) The provisions contained in the “State Administrative & Accounting Manual” are generally consistent with 5 MRSA, section 12022, subsection 5, except that it does not appear that it requires that (1) these costs are budgeted and accounted for separately from other expenditures and (2) the governing body approves the annual budget for these costs and provides periodic reports on actual costs paid directly or reimbursed.

The Committee also notes that the “State Administrative & Accounting Manual” specifies in 10.10.10.a that in order to establish an effective system for the management and control over travel-related costs, that each agency should have written internal policies and procedures governing travel-related costs, and in 10.50.25.c the “State Administrative & Accounting Manual” further specifies that agencies should have written internal policies and procedures to ensure claims for reimbursement are valid; however, ConnectME Authority does not appear to have adopted its own written internal policies and procedures related to travel-related costs.

Efficiency Maine Trust

Selection of Vendors, Contributions, and Travel, Meals and Entertainment

The Efficiency Maine Trust (EMT) has separate written policies and procedures for procurement, contributions and travel. The Committee finds that the EMT’s written policies and procedures with respect to the selection of vendors, contributions, and travel, meals and entertainment are consistent with the requirements of 5 MRSA, section 12022, subsection 3-5 with the following two exceptions: it does not appear that the written policy and procedures related to travel-costs require (1) these costs to be budgeted and accounted for separately from other expenditures and (2) the governing body approves the annual budget for these costs and provides periodic reports on actual costs paid directly or reimbursed. Michael Stoddard, Executive Director of the EMT indicated that the travel policy was approved in 2011, which was

prior to the enactment of 5 MRSA, section 12022, and has not been updated since. Mr. Stoddard noted that although these provisions are not written in EMT's travel policy, they have nonetheless been complying with these requirements. Allowed travel-meal expenses (the EMT does not allow for entertainment expenses) are separately itemized and approved by the EMT Board in the annual budget and are reported to the Committee in biannual budget filings. Although these requirements are being followed, Mr. Stoddard has indicated that the EMT will update their travel policy to include these provisions.

Reports provided pursuant to 5 MRSA § 12023, subsection 2

The EMT properly listed all persons who received contributions greater than \$1,000 in its reports submitted pursuant to 5 MRSA, section 12023, subsection 2. However, it was difficult for the Committee to ascertain based on the reports received pursuant to 5 MRSA, section 12023, subsection 2, whether all reported waivers of competitive procurement made by the EMT were consistent with the EMT's written policies and procedures, including proper justification and documentation. The reports submitted by the EMT properly list each entity from whom a noncompetitive procurement exceeding \$10,000 was made, and they further delineate this list by category (public information and outreach, data analytics, personnel services, and administrative), but the reports do not provide enough information on the justification for the waiver of competitive procurement. In some instances, the Committee could infer a waiver was consistent. For example, the written policy regarding procurement states that a competitive procurement may be waived for office space and the reports indicate payments exceeding \$10,000 for office lease space; however, as stated, it is generally unclear. The Committee believes that this is through no fault of the EMT because the statute requiring these reports simply requires that the reporting entity list all those procurements exceeding \$10,000 where a competitive procurement was waived, including the name of the vendor and the costs associated with those procurements. In order to assist in the efficient review of these quasi-independent agencies going forward the Committee suggests that the law be amended to require that the reports submitted pursuant to 5 MRSA, section 12023, subsection 2 explain how the waiver is consistent with the written policy of the quasi-independent agency. This would also assist in better connecting these reports, with the requirements regarding written policies and procedures and the required Committee review of the reports and written policies and procedures.

Cc: Members, Government Oversight Committee
Members, Joint Standing Committee on Energy, Utilities and Technology
Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Scott M. Hallowell, Maine Municipal Rural Electrification Cooperative Agency
Heather Johnson, Director, ConnectME Authority
Michael Stoddard, Executive Director, Efficiency Maine Trust