

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. C-5272
Public Service Commission, on)
its own motion, to implement) ORDER GRANTING MOTION TO
the Nebraska Broadband Bridge) RETURN GRANT FUNDING
Act.)
) Entered: January 18, 2023

BY THE COMMISSION:

On June 8, 2021, the Nebraska Public Service Commission ("Commission") initiated this proceeding on its own motion to implement the Nebraska Broadband Bridge Act ("the Act") and administer the 2021 grant cycle of the Nebraska Broadband Bridge Program ("NBBP"). In this docket, on January 4, 2022, the Commission entered an order issuing grant awards and the results of challenges ("January 4 Order"). One additional project was funded by order of the Commission entered on February 1, 2022.

On December 5, 2022, HunTel CableVision, Inc. dba Fastwyre Broadband ("HunTel") submitted a motion to the Commission for leave to return grant funding received in the above-captioned docket. In support of its motion, HunTel states that its Leshara Extended project ("Leshara Project") was approved by the Commission in its January 4, 2022 Order, with \$776,000 in funding approved to be distributed to HunTel. HunTel then received two partial payments of this grant funding, each in the amount of twenty-five percent of the grant award, or \$194,000 each, for a total of \$388,000. HunTel states that after receiving these payments, it experienced unexpected increases in the costs of materials and labor needed to complete the Leshara Project. HunTel states that costs have increased to the extent that it is uneconomic for HunTel to complete the Leshara Project.

O P I N I O N A N D F I N D I N G S

Under the terms of the January 4 Order, HunTel was required to complete the Leshara Project by July 5, 2023. In this Motion, HunTel states that it will not be able to meet this deadline and seeks to return funds rather than seeking an extension of the project deadline. The Nebraska Broadband Bridge Act, in Neb. Rev. Stat. § 86-1304(2)(b), provides that an NBBP grant recipient who fails to complete an awarded project by the deadline shall repay the grant. The Commission finds that it has the authority to order repayment of grant money issued to an NBBP awardee in the event that the awardee is unable to complete the project in question.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5272

Page 2

At the time the Leshara Project was approved, the Commission had not issued guidance for awardees as to the terms of such repayment. As an awardee, HunTel was required by Neb. Rev. Stat. § 86-1308 to agree to provide broadband Internet service in the project area "until released from the applicant's commitment by the [C]ommission."¹ HunTel has described the circumstances leading to its request to return the Leshara Project grant funding received to date. The Commission understands that material and labor costs have increased over the course of the past year. The Commission therefore finds that in this instance, it will accept the return of grant funding received to date, and will not impose additional monetary penalties against HunTel for its failure to complete the Leshara Project. However, the Commission intends to issue guidance for applicants in future grant cycles, including, but not limited to, disallowing further participation in future cycles.

The grant funding received by HunTel must be repaid to the Commission in full by **February 20, 2023**. If the funds are not received in full by this date, HunTel will be expected to complete the Leshara Project as originally planned, and subject to the requirements set forth in Docket No. C-5272 and Neb. Rev. Stat. § 86-1301 - 86-1310 (2021). The returned funds, in the total amount of \$388,000, will be added to the amount available in grant funding for the 2023 state-funded NBBP cycle.

HunTel will not be eligible to resubmit the Leshara Project, or any geographic portion thereof, for consideration in future state or federally funded grant cycles unless it provides at least the same matching portion it committed to in its application for the Leshara Project of 75% of the funds required to complete the project. The Commission further reserves the right to adjust its review of HunTel's financial, legal, and technical capability to complete future NBBP projects based on its failure to complete the Leshara Project.

The Commission's ruling on this particular motion should not be considered precedential for other NBBP grant awardees who may be faced with increased material and labor costs. Any motion to return funds in the NBBP will be considered on its own merits and with regard to the overall integrity of the NBBP grant program. The Commission wishes to clearly express its disappointment that the Leshara Project will not be built as intended, as well as its frustration that the funds allocated for this project will not be

¹ Neb. Rev. Stat. § 86-1308(2) (2021) (revised in 2022, after the award of the HunTel Leshara Project grant, by LB 1144).

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5272

Page 3

able to be issued for other projects until the 2023 state funded NBBP cycle. This motion is not granted lightly, and the Commission will review any similar motions filed in the future strictly.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that HunTel CableVision, Inc. dba Fastwyre Broadband must return to the Commission by **February 20, 2023** all grant funding received to date for its Leshara Extended grant awarded in the 2021 Nebraska Broadband Bridge Program. If the funds are not received in full by February 20, 2023, HunTel CableVision, Inc. dba Fastwyre Broadband will be required to complete the Leshara Extended project as originally submitted to the Commission, and subject to the requirements set forth in Docket No. C-5272 and Neb. Rev. Stat. § 86-1301 - 86-1310 (2021).

IT IS FURTHER ORDERED that HunTel CableVision, Inc. dba Fastwyre Broadband may not resubmit the Leshara Extended project, or any geographic portion thereof, in future state or federally funded Nebraska Broadband Bridge Program cycles unless it provides at least 75% of the funding required to complete the project.


ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 18th day of January, 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:






Chair

ATTEST:


Executive Director