

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 SCHEDULING HEARING
the Nebraska Broadband Bridge)
Act.)
) Entered: April 25, 2023

BY THE HEARING OFFICER:

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"). Pursuant to this order, ATC Communications/ATCJet.net ("ATC") was awarded \$259,775.00 to provide broadband service in the Big Springs, Nebraska area ("Big Springs project"). To date, ATC has received 50% of grant funding awarded for this project, totaling \$129,887.50.

On March 28, 2023, ATC submitted a motion to the Commission for leave to return grant funding received in the above-captioned docket. In support of its motion, ATC states that circumstances outside of its control have caused the Big Springs project to "no longer be considered cost effective and certainly cannot be considered a responsible use of Broadband Bridge Act funds." Specifically, ATC states that before ATC could begin work on the Big Springs project, broadband service meeting the Broadband Bridge Act standards of 100/20 speeds became available from a different provider throughout the project area. ATC further states that it has been unable to obtain necessary pole attachments agreements to complete the project. As a result, ATC seeks to return the grant funds it has received for the Big Springs project to the Commission.

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, ATC was required to complete the Big Springs Project by July 5, 2023. In this Motion, ATC 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

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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 prior to the project completion deadline in the event that the awardee is unable to complete the project in question.

Upon consideration of the circumstances, the Commission finds that a hearing on this matter should be scheduled prior to issuing a decision on ATC's motion. The Commission seeks additional testimony and evidence regarding ATC's request to return grant funding rather than completing the Big Springs project. Therefore, a hearing on this matter shall be held on **Wednesday, June 7, 2023 at 2:30 p.m. CST** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska.

This Hearing will be held in person, however, remote access to the hearing will be available via WebEx at the following link: <https://psc.nebraska.gov/stream> (case sensitive). If a witness desires to appear via Webex, please notify Commission Staff at (402) 471-3101 at least twenty-four hours in advance of the hearing to ensure that said witness has the appropriate capability to appear via video and audio. Anyone attempting to appear via voice call only shall not be allowed to testify.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that hearing in the above-captioned matter be held on **Wednesday, June 7, 2023 at 2:30 p.m. CST** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska and via videoconference as set forth above.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 25th day of April, 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

BY: 

Dan Watermeier
Hearing Officer