

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-131
Public Service Commission, on) Progression Order No. 2
its own motion, to establish)
reverse auction procedures and) PROTECTIVE ORDER
requirements.)
)
) Entered: November 16, 2023

BY THE HEARING OFFICER:

The Nebraska Public Service Commission ("Commission") initiated this proceeding on June 29, 2021, to establish reverse auction procedures and requirements in order to carry out Neb. Rev. Stat. § 86-330 (2018). On May 7, 2021, the Governor approved the Commission's Reverse Auction Rules and Regulations, which are now codified in 291 Neb. Admin. Code, Ch. 16. On October 11, 2023, the Commission entered an order ("October 11 Order") setting forth the 2024 Reverse Auction schedule and procedures. In the October 11 Order, the Commission required that providers interested in participating in the Auction must submit to the Commission a Pre-Auction Application Form, including financial documentation showing the Applicant's financial capability to bid on the proposed service areas.

Upon review of the information required to be submitted in the course of the 2024 Reverse Auction, I hereby find that certain items, set forth below, are of a sensitive nature and merit protection under the terms of this Protective Order.

Protective Order

- 1. This Protective Order shall govern the use of all confidential information and documents submitted to the Commission by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Nebraska Public Service Commission.
2. Definitions. For purposes of this Protective Order:
a. The terms "Auction" and "Reverse Auction" shall mean the 2024 Reverse Auction conducted by the Nebraska Public Service Commission during the calendar year 2024 and within docket NUSF-131, Progression Order #2.

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- b. The term "Commission" shall mean the Nebraska Public Service Commission.
- c. The term "Participant" shall mean a party submitting information to the Commission for purposes of submitting bids within the 2024 Reverse Auction, and/or receiving funding within the 2024 Reverse Auction.
- d. The term "Confidential Materials" shall mean:
 - (1) Materials provided by a Participant to the Commission in the 2024 Reverse Auction which are of a sensitive financial, confidential, and/or proprietary nature, including:
 - (a) documentation relating to a Participant's financial capacity submitted as Attachment B to the Pre-Auction Application Form or as Attachment H to the Post-Auction Commitment Form;
 - (b) documentation showing locations of a Participant's currently existing facilities, including maps, customer addresses, and subscribership information which would indicate the physical placement of the Participant's facilities.
 - (2) Materials submitted in the Auction meeting the criteria listed above will be considered Confidential Materials. Materials and submissions not specifically listed above shall not be considered Confidential Materials unless so designated by further Order of the Hearing Officer or the Commission.
 - (3) Confidential Materials shall not include any information or document contained in the files of the Commission, or any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court.

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- (4) Confidential Materials shall not include information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order.
3. Except as set forth below, Confidential Materials shall be made available under the terms of this Protective Order only to the Commission and Commission staff and counsel. Confidential Materials shall be treated as proprietary and confidential once submitted, and shall not be made available to Participants in this docket. Confidential Materials shall not be made available to the public or published on the Commission website.
4. Should Confidential Materials be inadvertently disclosed, any person who identifies the disclosure must immediately notify the Commission of the disclosure and destroy any copies of the Confidential Materials in their possession or control. No additional copies of Confidential Materials shall be made. Any further disclosure or use of Confidential Materials is strictly prohibited and shall constitute a violation of an order of the Commission.
5. All Confidential Materials shall be submitted to the Commission through secure transmission. Such materials shall be marked as Confidential prior to submission. Participants shall take all reasonable precautions necessary to ensure that Confidential Materials are not distributed to unauthorized persons. The use of such precautions does not, however, alter or extend any filing deadlines previously set in this matter. It is the Participant's responsibility to ensure that all materials, including Confidential Materials, are filed in a timely manner.
6. The Commission or the Hearing Officer may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.
7. This Protective Order governs only Confidential Materials filed in the course of the 2024 Reverse Auction. Materials submitted in other Commission proceedings are not included in the scope of this Protective Order.

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8. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.
9. Any violation of this Protective Order shall constitute a violation of an order of the Commission.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this Protective Order shall be entered in the above-captioned proceeding.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of November, 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

BY:



Tim Schram
Hearing Officer