



July 19, 2021

Mr. Steve Kahl, Executive Secretary
N.D. PSC
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Mr. Kahl,

Attached you will find the comments of the Broadband Association of North Dakota in Case No. PU-21-168.

Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Crothers", is written over a light blue horizontal line.

David Crothers
Executive Director, BAND

**BEFORE THE
NORTH DAKOTA PUBLIC SERVICE COMMISSION**

Broadband Association of North Dakota)	
Reply to NDPSC Notice of Opportunity for Hearing)	
)	Case No. PU-21-168
In the Matter of LTD ETC Application)	
)	

**Comments of the Broadband Association of North Dakota (“BAND”)
July 19, 2021**

Executive Summary

The Broadband Association of North Dakota (“BAND”)¹ respectfully submits this response to the NDPSC letter dated June 9, 2021 inviting comment on the ETC status application of LTD Broadband, LLC (“LTD” or “Applicant”). The membership of BAND notes that this application is a critical decision point for the NDPSC in the future of the 800+ locations that are dependent on the essential voice and broadband services in question.

Unlike other ETC applications, that are merely requesting ETC status in a competitive marketplace as an additional carrier option, this application could represent a provider of last resort scenario for these 800+ rural high-cost locations that have been technologically left behind by a departing incumbent price cap carrier. As such, BAND believes that the NDPSC must be thorough in its analysis of the ability of the Applicant to not only deliver on the promises of service committed to in the RDOF process, but also in the Applicant’s ability to sustain the services beyond the RDOF funding period into the foreseeable future.

In its June 9th letter the NDPSC appropriately referenced three questions for consideration in its LTD ETC decision. While BAND finds each of the presented questions to be relevant, perhaps the most critical question is Question #3, “Is designation of the applicant as an ETC in the public interest?”. As our comments below will more fully describe, BAND finds there to be sufficient

¹ The Broadband Association of North Dakota represents the interests of rural telecommunications and broadband providers in the State. Member companies include BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecom Cooperative, Dickey Rural Networks, Midstate Telephone Company, MLGC, Nemont Telephone Cooperative, North Dakota Telephone Company, Northwest Communications Cooperative, Red River Communications, Reservation Telephone Cooperative, SRT Communications, United Communications and west River Telecommunications Cooperative.

questions of significance about the Applicant’s capabilities and future business model details to necessitate a more thorough discussion of the public interest benefits of granting the requested ETC status.

At a high level, BAND’s concerns about the application can be summarized as the following:

- I. Is LTD financially capable of completing construction of the promised network and delivering the supported services?
- II. Is the RDOF USF support amount that has been preliminarily awarded to LTD sufficient to enable LTD to deliver the services to the impacted locations?
- III. Are the promised services sustainable beyond the RDOF funding period?
- IV. Is LTD likely to effectively become the “Carrier of Last Resort” for the impacted areas?
- V. Does the granting of ETC status to the applicant create an environment in the targeted areas that will impede future grant funding opportunities, and the availability of other competitive choices?
- VI. Is LTD’s RDOF award the NDPSC’s best opportunity to get the required services to the impacted ND locations?

Discussion

I. Is LTD financially able to complete the construction of the promised network and deliver the supported services?

In LTD’s application to the NDPSC seeking North Dakota (“ND”) ETC status, the Applicant claims to “operate an extensive fiber network with geographically dispersed redundant paths to insure maximum reliability and throughput its tower network”. Despite these claims, the coverage map displayed on the LTD Broadband website reflects very little, if any, such network currently operating within the State of North Dakota.² Further, to the extent LTD is operating in ND, it is certainly not providing the level of services committed to in its conditional RDOF award. As a result, LTD would need to construct its ND gigabit fiber-based network essentially from scratch to fulfill its RDOF service delivery commitments. The NDPSC must determine if the \$800k+ per year in RDOF support funds will adequately build and support the network based upon the LTD business plan. The NDPSC should request a detailed analysis of the construction costs associated with the North Dakota locations and the associated engineering design. LTD’s business assumptions related to the service areas are critical to determining service viability, and therefore its public interest.

LTD has also been awarded RDOF areas in 14 other States, committing to serve more than 528,000 locations with a fiber-based network that is currently non-existent. The NDPSC must weigh LTD’s ability to fulfill its commitments in ND, while simultaneously attempting to

² <https://ltdbroadband.net/coverage>

complete an extensive array of other projects in 14 additional States. As reported in its application, LTD currently serves only 16,000 wireless subscribers in a limited regional footprint. The ramp up required to reach more than half a million subscribers across the nation is a formidable task for any carrier. For a carrier the size of LTD, with very limited fiber-based network experience, this task is monumental. LTD's ability to successfully complete the project is critical to the future services of the awarded ND locations.

II. Is the bid USF support amount that has been preliminarily awarded to LTD sufficient to deliver the services to the impacted locations?

BAND observes that the areas awarded to LTD were areas unserved with broadband service by the incumbent price cap carrier presumably because the FCC's offered support level was determined to be insufficient, and the incumbent carrier found the locations to be uneconomical to serve. LTD's winning bids for support in the awarded areas is a fraction of the CAF support offered to the incumbent. The RDOF support amounts to approximately \$86 per location per month for the 10-year period. Clearly, the NDPSC should be concerned that the very low level of funding may be insufficient to independently fund construction and support operations without substantial additional sources of financial support. To determine whether the public interest will be served by granting LTD ETC status, the NDPSC must determine if LTD is able to provide the required additional funding and sustain the supported services to the 800+ ND locations beyond the RDOF funding window.

III. Are the promised services sustainable beyond the RDOF funding period?

The service areas in question comprise very low levels of location density. Low household density is a primary indicator of high levels of operational cost. Beyond the concerns mentioned in Item #2 above, BAND is also concerned that the areas awarded will become financially difficult to serve after the RDOF funding window is complete. The services promised to the 800+ locations are critical to the citizens of North Dakota that live there. At a minimum, LTD must demonstrate that it has a business model that will support the locations beyond the RDOF funding window. Failure to provide the details of their envisioned business model is a failure to demonstrate that the project is in the public interest.

IV. Is LTD likely to effectively become the "Carrier of Last Resort" for the impacted areas?

As mentioned in Item #2 above, the areas conditionally awarded to LTD in the RDOF process were found uneconomical to serve by the incumbent carrier. In fact, the incumbent carrier has been actively exploring the possibility of abandoning the areas and eliminating their status as the Carrier of Last Resort. It is that transitional circumstance that makes this ETC application very different from an application to merely serve an area as a competitive option. It is likely that the Applicant could become the 800+ locations only viable carrier option.

V. Does the granting of ETC status to the applicant create an environment in the targeted areas that will impede future grant funding opportunities, and the availability of other competitive choices?

Most existing federal grant programs will not award funds to areas that are already receiving federal funds to serve the locations. While this appropriately prevents the over-building of existing supported networks, it can also substantially delay the ability of other carriers to receive federal funding in high cost areas during the initial funding period. In the case of RDOF, LTD will not be required to demonstrate any progress on their fiber deployment for a minimum of three years. That delay should be particularly concerning in a case where the chosen carrier is unproven. If approved, LTD has a huge financial and operational challenge in front of it over the next decade. The NDPSC must carefully weigh LTD's ability to deliver on its commitment given the limited ability of other carriers to provide funded services in these locations during the 10-year RDOF funding period.

VI. Is LTD's RDOF award the NDPSC's best opportunity to get the required services to the impacted ND locations?

At the present time there are many grant funding opportunities available to address unserved and underserved locations in North Dakota. Is this conditional RDOF award to LTD the best opportunity to get the 800+ locations served in a sustainable fashion? The State of ND currently has funds available to better deploy broadband services. Substantial additional broadband infrastructure grant dollars are being made available under various other federal programs (under the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act of 2021). And, even more funding for broadband in unserved areas is being considered in other infrastructure stimulus proposals being considered by Congress. In addition, North Dakota is blessed with many rural telecommunications and broadband companies that have successfully demonstrated an ability to serve rural high cost areas for the better part of the past century. Is the approval of a relatively unproven carrier to provide services to these areas in the public's best interest?

NDPSC Questions #1 and #2

In response to Question #1, "Is the Applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?". The fact that the Applicant accurately describes the requirements to qualify under Section 214 (e) in its application should not be confused with the ability to perform the functions. LTD does not possess a network capable of delivering the committed service levels today and has not currently demonstrated that it has the capability to do so.

In response to Question #2, "What ETC universal support area should be designated?". Should the NDPSC find that this application is in the public interest, there is no reason to designate status in any areas other than the 16 areas specifically requested in the LTD application.

Conclusion

Based upon the unanswered questions posed above, and the lack of detail about LTD's envisioned business plan, BAND opposes the application for ETC status. The Broadband Association of North Dakota prides itself on the excellent level of service provided by its membership to the citizens of rural North Dakota. We welcome the opportunity to further explore service options for the 800+ impacted locations relevant in the application and look forward to the opportunity to discuss solutions that ensure that all North Dakotans are served with voice and broadband services of a quality similar to those provided by our members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Crothers". The signature is stylized and cursive.

David Crothers

Executive Director, BAND