

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

LTD Broadband LLC
Designated Eligible Carrier
Application

Case No. PU-21-168

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **29th day of September 2021** she deposited in the United States Mail at Bismarck, North Dakota, **one** envelope by first class mail, fully prepaid, securely sealed each containing a photocopy of:

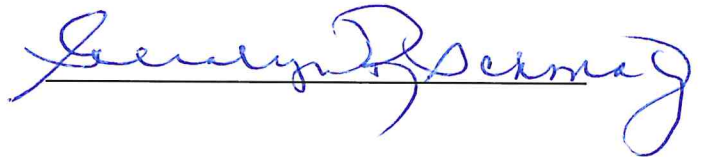
- **Second Staff Response to Application for Protection of Information**

The envelope was addressed as follows:

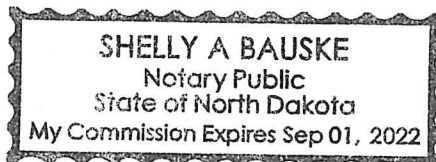
Casey Furey
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **29th day of September 2021**.



Notary Public



SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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**SECOND STAFF RESPONSE TO APPLICATION FOR PROTECTION OF
INFORMATION**

On August 10, 2021, LTD Broadband LLC (LTD) filed an Application for a protective order under North Dakota Administrative Code Section 69-02-09 for protecting against public disclosure of protected information as defined by North Dakota Century Code (N.D.C.C.) section 44-04-18.4.

On September 17, 2021 Staff issued its response to the Application for Protected information and granted it for the Financial Information and Estimated Cost. Staff did not have enough information to grant it for the Project Build Out information (RFI 3) and requested that LTD provide additional information as to why RFI 3 meets the requirements for protection.

The information for which the Company seeks protection in RFI 3 relates to the project timeline and miles to be built each year. The Company reasserts that the information is Confidential and is Commercial or Financial information as it may provide an economic advantage to LTD's competitors as provided in N.D.C.C. § 44-04-18.4(2)(a).

The Company states that this information is commercial information because:

“Disclosure would provide competitors with the ability to undermine LTD's business relationships, and allow parties to share the information more broadly with other competitors, vendors, and suppliers to the disadvantage of LTD. Examples of potential harm that could be caused by disclosure include potential impacts to price negotiations with vendors and suppliers that may be inclined to increase various underlying cost assumptions and/or adjust service and completion timelines [based on their knowledge of the

mileage ultimately proposed to be installed]; disclosure could also impact LTD's competitive ability to contract, and install and roll out service in a competitive and timely manner as competitors would have commercial advantage of knowing the amount of infrastructure [miles] LTD estimates to install to provide its services [which could be used by competitors in attempt to undercut LTD's efforts by accelerating timelines and increasing ultimate infrastructure installation and deployment roll out to undercut, frustrate, and compete with the services LTD intends to install for deployment] [because mileage is not disclosed in the FCC long-forms, disclosure would harm LTD by making this information available to competitors who could use it to complete with LTD's re various bidding matters – whether that be future RDOF awards or other similar types of programs].”

The Company further states that the Commission has previously treated information that is provided to the FCC and treated by the FCC as confidential information as protected information and cites to PU-07-595. Staff recommended information in that case acknowledged that the North Dakota Attorney General has interpreted N.D.C.C. §44-04-18(1) regarding protected information allows a state agency to provide confidentiality to protection of information if the information is specifically protected under federal regulation. Rural Digital Opportunity Funds applications are treated as confidential information by the F.C.C. and are not publicly available.

The confidentiality of this information has been maintained by LTD. The information is not disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in connection with the subject matter of the information.

LTD requests only the milage be redacted.

Staff requests a new redacted copy of the financial information as well as certain portions were entirely redacted when only the financial information (numerical data) is protected and the general text regarding the category and other information was redacted

and is not afforded protection. Legal Counsel for LTD has agreed to provide a new redacted copy.

Staff believes that LTD's application satisfies the requirements of the North Dakota Century Code for protection of the information, which is the subject of this request.

For reasons set forth above, Staff recommends that the Commission grant the application of LTD to protect certain information filed in the captioned case.

Dated this 29th day of September 2021.



Brian Johnson
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North Dakota Public Service Commission
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