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October 1, 2021

*Via Electronic Mail & Hand Delivery*

Mr. Steve Kahl  
Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480  
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**In re: LTD Broadband LLC  
Reply to Staff's Sept. 23 Letter, Dkt No. 22  
Designated ETC Application  
Case No. PU-21-168  
OAH File No. 20210263  
Our File No. 061406-000001**

Dear Mr. Kahl:

I am writing on behalf of my client LTD Broadband LLC ("LTD") to address the points raised in Commission Staff Victor Schock's September 23, 2021 letter filed in the above-referenced matter (Docket No. 22). On September 23, 2021, one day after Staff's retroactive appointment as advocacy Staff, LTD received via email a copy of Staff's September 23 letter recommending denial of the LTD's eligible telecommunications carrier ("ETC") application. The letter also included Staff's draft comments proposed to be filed with the Federal Communications Commission ("FCC"). The purpose of this letter is to address various points raised by Staff in the September 23 correspondence, in particular the statement that Staff "does not believe it is in the public interest of North Dakota to grant ETC status to LTD."

LTD is concerned that the letter could be construed to recommend denial of LTD's ETC application prior to adequate development of the record and completion of the evidentiary process. The record remains open in this proceeding and LTD intends to submit further information to the Commission in support of its ETC application. The Commission should have the benefit of reviewing a complete record and the opportunity to ask questions prior to issuing a decision;

likewise, this process should occur in advance of Staff issuing a recommendation in this proceeding. LTD also should have the opportunity to respond to questions on its application and to provide additional information to address any questions or concerns. Moreover, in the draft comments to the FCC, Staff acknowledges the processes it and the Commission employ for disposition of ETC applications, including the use of a “streamlined hearing process.” LTD should be afforded this same process before any recommendation and decisions on its application are made.

On September 24, 2021, advocacy Staff and counsel, Public Utilities Director Patrick Fahn, LTD’s FCC counsel and I had a call to discuss Staff’s letter. On this call, LTD explained that Staff’s recommendation was premature given the status of the proceeding. LTD asserted it should have the availability to respond to any questions or concerns on its application. LTD counsel also raised several concerns with assertions in Staff’s proposed comments to the FCC. LTD expressed concerns that staff’s proposed comments neither indicate that the record is still open in this proceeding, nor that an informal hearing or other process has yet to be scheduled. Staff’s comments also appear to reference an intervening party in this proceeding; however, a ruling on the pending petition to intervene has yet to be issued, and LTD has opposed intervention. The comments further indicate that rural local exchange carriers (“RLECs”) submitted comments in the proceeding because “LTD’s application requested ETC designation within exchanges located within the study areas of various RLECs for which [Rural Digital Opportunity Fund] RDOF support was not granted.” LTD explained to Staff that the FCC has excluded from RDOF funding any portion of an RLEC’s Study Area Code that lies within a census block deemed eligible for RDOF support.

Finally, LTD acknowledges Staff’s disagreement with a statement made in LTD’s waiver request filed with the FCC on June 7, 2021, which suggests the PSC could complete processing of LTD’s application within 30 days. LTD accepts Staff’s representation in the draft comments appended to Mr. Schock’s letter that LTD’s former counsel misrepresented the nature of ETC proceedings in North Dakota. LTD sincerely apologizes for its former counsel’s misrepresentation. LTD informed Staff that it planned to correct the record at the FCC by submitting declarations confirming that neither LTD nor its current counsel had any knowledge of the misrepresentation of LTD’s former counsel. Consistent with this commitment, on September 28 LTD forwarded Staff its proposed draft declarations to be filed with the FCC to clarify the record. LTD respectfully requests that the Commission forbear from submitting the draft comments in light of LTD’s correction of the FCC record.

LTD also notes that eight other states have designated LTD as an ETC. Each of these states conducted a process leading to a result that LTD met state ETC designation requirements and that designation would be in the public interest. LTD recognizes that each state has its own standards, but Staff’s recommendation for application denial at this stage is contrary to the findings in eight other states, and premature given the status of this proceeding. LTD looks forward to a fair process

during which it expects to further demonstrate its qualifications to become an ETC, and to meet its public service obligations consistent with the FCC's RDOF rules and North Dakota requirements. LTD remains eager to provide voice and Gigabit broadband service to unserved North Dakotans and intends to submit further information to the Commission in support of its ETC Application.

Please contact me if there are any questions concerning this matter.

Sincerely,



Casey A. Furey

cc: ALJ Timothy J. Dawson (via email)  
John M. Schuh (via email)  
Brian L. Johnson (via email)  
Patrick Fahn (via email)  
Victor Schock (via email)