



broadband association of north dakota

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October 6, 2021

Mr. Steve Kahl, Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Suite 408
Bismarck, N.D. 58505

Dear Mr. Kahl,

Attached please find additional comments from BAND pertaining to the LTD
Broadband ETC application (case #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

cc: Casey Furey, Counsel for LTD (via email, cfurey@crowleyfleck.com)
Victor Schock, Public Utility Analyst (via email, vschock@nd.gov)



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Mr. Steve Kahl, Executive Director
North Dakota Public Service Commission
600 East Boulevard, Suite 408
Bismarck, ND 58505

Dear Mr. Kahl,

On September 15, 2021 BAND requested authorization from the NDPSC to view the protected information filed by LTD, LLC ("LTD") on August 11, 2021 under protected cover relating to their ETC Application dated May 7, 2021 (Case #21-168).

Without surprise, LTD on September 29, 2021 filed an objection to our request to have our representatives view the materials that purportedly support LTD's ETC application request. They cite access to LTD competitive information, inadequate BAND responses to the requirements of 69-02-09-07 and attempts by BAND to circumvent the federal protection processes of RDOF as the reasons to deny our request.

We respectfully remind LTD that BAND engaged in this ETC application process at the public invitation of the NDPSC. Among the questions posed by the NDPSC regarding the application is whether granting the request is in the public interest of the citizens of North Dakota. It is not BAND's responsibility to prove that the LTD application is not in the public interest, rather it is LTD's responsibility to prove to North Dakotans (including BAND members) that the application is in the public interest. Doing so requires sharing sufficient data and details about the LTD plans for the envisioned services, and financing of same, to demonstrate that the plan is both viable and sustainable. Anything less would be an injustice to the citizens of the impacted locations and decidedly not in the public interest. Playing "hide the ball" with the supportive information should not be viewed as an effective strategy to gain ETC status in North Dakota.

BAND suggests there is good cause for access to the information for BAND's selected representatives (Carissa Swenson and Derrick Bulawa). We summarize our arguments for access to the LTD data as follows:

- BAND members competed for the impacted areas in the RDOF auction and were directly impacted by the bids of LTD. The NDPSC's decision on the LTD ETC application will directly impact the plans and operations of BAND member companies. As a result, BAND members surely have standing in this application process.

- There is no one with more direct hands-on experience with North Dakota broadband industry business model metrics and the related costs of network deployment than the BAND membership. Properly vetting the LTD plans for deployment in the State is integral to the ETC application decision regarding public interest.
- BAND and its membership have more than 65 years of serving the public interest of North Dakotans. The organization is relied upon by legislators, the executive branch, and other policymakers to provide reliable and accurate information of the needs of North Dakotans.
- Finally, the Public Service Commission does not have either the technical expertise or sufficient staff to adequately analyze costs in competitive markets. It is essential to the public interest that the claims made by those seeking to serve in these areas have their assertions analyzed by those who do have that ability when seeking the Commission's ETC designation.

BAND respectfully requests access to the LTD information for ND services filed in their ETC application.

Respectfully,



David Crothers
Executive Director
Broadband Association of North Dakota

cc: Casey Furey, Counsel for LTD (via email, cfurey@crowleyfleck.com)
Victor Schock, Public Utility Analyst (via email, vschock@nd.gov)