

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

LTD Broadband LLC
Designated Eligible Carrier
Application

Case No. PU-21-168
OAH File No. 20210263

ORDER ON PETITION TO INTERVENE

On September 15, 2021, David Crothers, Executive Director, Broadband Association of North Dakota submitted a Petition to Intervene. The Petitioners identify as the Broadband Association of North Dakota (BAND) an organization representing the interests of numerous rural telecommunications and broadband providers in North Dakota.

North Dakota Century Code § 28-32-28 addresses intervention in adjudicative proceedings and provides as follows:

An administrative agency may grant intervention in an adjudicative proceeding to promote the interests of justice if intervention will not impair the orderly and prompt conduct of the proceeding and if the petitioning intervenor demonstrates that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of statute or rule. The agency may impose conditions and limitations upon intervention. The agency shall give reasonable notice of the intervention to all parties. An administrative agency may adopt rules relating to intervention in an adjudicative proceeding.

The North Dakota Public Service Commission ("Commission") has adopted its own rules relating to intervention. The Commission's rule on intervention provides in part:

Any person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and the intervention would not unduly broaden the issues or delay the proceeding. The commission may impose conditions and limitations on an intervention to promote the interests of justice.

...

Contents of petition to intervene. A petition to intervene must be in writing and must set forth the grounds for intervention, the position and interest of the petitioner in the proceeding, what the petitioner would contribute to the hearing, and whether the petitioner's position is in support of or in opposition to the relief sought.

N.D. Admin. Code § 69-02-02-05.

The Petition does not set forth grounds for intervention. Although BAND is a potential competitor of LTD Broadband LLC (LTD), the stated substantial interest of BAND is ensuring that all federal and state requirements pertaining to eligible telecommunications carrier status are properly considered by the Commission. The Commission has a legal duty to follow the law and conduct a hearing. If BAND has a substantial interest in aiding the Commission in completing its duty, there would be no limit to who could be an intervenor. In as much as BAND's interest is to aid the Commission in the completion of its duty, the Petition does not set forth what the Petitioner would contribute to the hearing. There is nothing in the petition that BAND will offer anything that will exceed what the Commission will do regardless of the Petition. There is no particular relief sought in the Petition beyond the support of the Commission and the decision being in accordance with the law and the public interest.

The Petitioner has not presented sufficient information to satisfy the statutory intervention requirements set forth in N.D.C.C. § 28-32-28 and N.D. Admin. Code 69-02-02-05. However, the Petitioner may participate in the public testimony portion of any proceeding.

Having considered the written submission of the Petitioner, it is hereby **ORDERED** that
BAND'S Petition to Intervene in PSC Case No. PU-21-168 is **DENIED**.

Dated at Bismarck, North Dakota, this 11th day of October 2021.

State of North Dakota
Public Service Commission

By: 

Timothy J. Dawson
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, North Dakota 58503
Telephone: (701) 328-3200

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the **ORDER ON PETITION TO INTERVENE** was mailed, regular mail, on the 11 day of October 2021, to:

David Crothers
Executive Director, BAND
P O Box 1144
Mandan, ND 58554

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

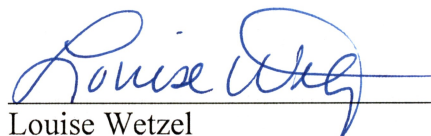
and that a true and correct copy of the **ORDER ON PEITION TO INTERVENE** was mailed, inside mail, at the State Capitol on the 11 day of October 2021, to:

Brian Johnson
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

and that the original **ORDER ON PETITION TO INTERVENE** was mailed, inside mail, at the State Capitol on the 11 day of October 2021, to:

John Hamre
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS
Timothy J. Dawson, Administrative Law Judge


Louise Wetzel