

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**LTD Broadband LLC
Designated Eligible Carrier
Application**

Case No. PU-21-168

OAH File No. 20210263

ORDER GRANTING TRADE SECRET PROTECTION

1. LTD Broadband LLC, (“LTD” or the “Company”), applied for trade secret protection on August 10, 2021, pursuant to N.D. Admin. Code § 69-02-09-01, and requested a protective order in accordance with the provisions of the N.D. Admin. Code.

2. The trade secret information has been identified as financial records, cost estimate to put in fiber optic cable, and the timeline and specifics of the build out.

3. Commission staff, as required by N.D. Admin. Code § 69-02-09-03, has made a prima facie recommendation that the information is relevant for the hearing of this case and is a trade secret as defined by N.D.C.C. § 47-25.1-01(4). At first, the Commission staff did not have enough information to determine how the timeline and specifics of the build out would cause substantial competitive injury to the Company. However, in a second staff response the staff recommended trade secret protection for this information on September 29, 2021.

4. The information for which trade secret protection is sought is commercial information “pertaining to buying and selling of goods and services which has not been previously publicly disclosed” as provided in N.D.C.C. § 44-04-18.4(2)(a), and if disclosed would cause substantial competitive injury to the person from which the information was obtained. In addition, the information is trade secret because it “(1) [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and (2) [i]s the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information,”

as provided in N.D.C.C. § 44-04-18.4(2)(d). The information is not readily ascertainable by other proper means to such competitors, vendors, suppliers, or other persons. The confidentiality of this information has been maintained by LTD.

5. If competitors, vendors or other suppliers had access to such confidential information, it could adversely affect prices for future material or services and increase costs to the ultimate disadvantage of LTD costumers. In particular, potential suppliers would know what LTD has determined to be the cost range for certain components of its supply needs and consequently the cost range could potentially serve as a floor, below which no bidder would submit a bid price. For the timeline and specifics of build out, disclosure of the mileage ultimately proposed to be installed could have potential impacts to price negotiations, especially in the future.

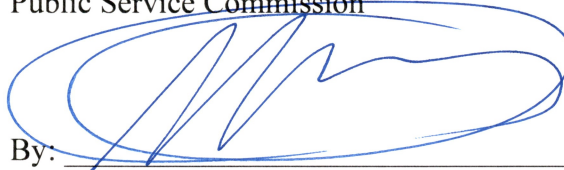
6. This Hearing Officer has fully reviewed and considered the application of LTD and the recommendations of Commission staff, and determines that the information is relevant for the hearing of this case, that the information is not a public record under N.D.C.C. § 44-04-18 because the information is a trade secret as defined by N.D.C.C. § 47-25.1-01(4) and N.D.C.C. § 44-04-18.4(2)(d), and that the information is entitled to protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1, N.D.C.C. § 44-04-18.4, and N.D. Admin. Code ch. 69-02-09, all as set forth above;

IT IS, THEREFORE, ORDERED that LTD is hereby granted trade secret protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1, N.D.C.C. § 44-04-18.4, and N.D. Admin. Code ch. 69-02-09 for the information identified in this Order; and it is further

ORDERED that this order shall not constitute precedent for a determination of entitlement to trade secret protection for any information submitted upon any subsequent application.

Dated in Bismarck, North Dakota, this 12th 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
tjdawson@nd.gov

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PUBLIC SERVICE COMMISSION

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CERTIFICATION OF SERVICE

The undersigned certifies that the original of the **ORDER GRANTING TRADE SECRET PROTECTION** was mailed, inside mail, at the State Capitol, on the 12 day of October 2021, to:

John Hamre
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505-0480

and that true and correct copies of the above document were sent by electronic mail on the 12 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 above document was mailed, inside mail, at the State Capitol on the 12 day of October 2021, to:

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

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



Louise Wetzel