

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 REQUEST TO VIEW INFORMATION

1. On September 15, 2021, the Broadband Association of North Dakota (BAND) made a request for protected information provided by LTD Broadband LLC (“LTC”) from the Public Service Commission (“Commission”). In addition, on October 13, 2021, BAND’s request to intervene was denied.

2. The viewing of protected information is governed by N.D.A.C. § 69-02-09-07. It provides:

1. The commission and its staff, and any outside counsel retained by the commission, may view protected information filed with the commission at any time. However, the commission and its staff are bound by the terms of these rules to keep the information confidential and must execute the protective agreement as required in subsection 3. The originator (applicant for protected status) may view the information at any time without the necessity of executing the protective agreement required in subsection 3.
2. Others who wish to view protected information, including experts who are not regular full-time employees of the commission, and opposing counsel and experts, may do so only after authorization from the commission. The commission may grant authorization when the person wishing to view the information submits a written request that includes all of the following:
 - a. The name and address of the person who will view the information;
 - b. Identification, as specifically as possible, of the information requested;
 - c. A showing of good cause why the information is needed;
 - d. Identification of the purpose of the review;
 - e. Identification of the intended use of the information; and
 - f. An estimate of the time needed for review.

The requesting person shall file the original written request with the commission and serve it upon the originator at least ten days prior to the time the person desires to view the information unless the originator agrees to a shorter notice period.

3. Any person reviewing protected information filed with the commission shall execute a protective agreement form provided by the commission. A new protective agreement form must be executed for each workday in which information is viewed.

4. The commission shall disclose the information unless:

a. The commission is prohibited by law from disclosure under any circumstance; or

b. The originator shows good cause why disclosure should not be granted.

5. When disclosed, protected information may not be removed from commission offices and must be returned for secure filing prior to the end of the workday on which the information was disclosed, and may be used only for purposes of the proceeding or case.

6. This issue is whether there is good cause to disclose or not disclose the information. Members of BAND are at least a potential competitor and some members are in direct competition with LTD. The information is protected by the Federal Communications Commission. This is good cause not to disclose the information. For these reasons and the reasons in the Staff Response to Request to view information dated October 15, 2021, the request is **DENIED**.

Dated in Bismarck, North Dakota, this 20th 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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CERTIFICATION OF SERVICE

The undersigned certifies that the original of the **ORDER ON REQUEST TO VIEW INFORMATION** was mailed, inside mail, at the State Capitol, on the 20 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 20 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 20 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