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November 3, 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
ndpsc@nd.gov
smkahl@nd.gov

**In re: LTD Broadband LLC
Reply to Staff's Oct. 29 Letter, Dkt No. 36
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") in response to Commission Advocacy Staff Victor Schock's October 29, 2021 letter filed in the above-referenced matter as Docket No. 36. The purpose of this letter is to address various points raised by Advocacy Staff in the October 29 correspondence. LTD continues to disagree with Advocacy Staff's position on its eligible telecommunications carrier ("ETC") application. Additionally, LTD has concerns with Advocacy Staff's recommendation that "it would be appropriate to put the proceeding on hold until the FCC reverses their waiver denial." LTD writes to confirm its request that the Commission set the proceeding for hearing as soon as possible.

Prior to Mr. Schock's October 29 letter, LTD had been working with Commission Advocacy Staff on hearing scheduling. On October 21, LTD proactively advised Commission Advisory Staff, Advocacy Staff and counsel of the status of the Federal Communications Commission's ("FCC") decision on LTD's extension request. At this time, the parties discussed continued disposition of the matter by hearing, potential hearing format and scheduling, and LTD's plan to ask the FCC for reconsideration of its order denying LTD's request to extend the June 7, 2021 deadline for RDOF long-form applicants to obtain state ETC designation from North Dakota. See Docket No. 35. The deadline for LTD to file its petition for reconsideration with the FCC is November 19, 2021.

LTD believes reconsideration is merited and notes the FCC has not identified any substantive deficiencies in its long-form application. LTD has previously explained that it relied upon material misrepresentations made by its former counsel of record regarding ETC approval timelines. *See* Docket No. 27. It was upon these representations that LTD submitted its ETC application in May 2021. LTD has discussed this situation with Commission Staff and counsel on prior occasions. Notwithstanding the foregoing, Advocacy Staff expressly acknowledges in the October 29 correspondence that the delay in LTD obtaining ETC designation is also in part due to “concerns raised by Staff and the [B]roadband [A]ssociation of North Dakota” (“BAND”). Docket No. 36. To the extent Advocacy Staff has concerns with LTD’s application, these concerns could have previously been addressed, and can still be addressed, by a timely hearing. With respect to the referenced delay caused by BAND, LTD’s right to a timely hearing on its application should not be impeded by BAND’s late-stage, unmerited and unsuccessful attempt to intervene in this proceeding. *See* Docket No. 30, Order denying BAND petition to intervene (stating “[t]he Commission has a legal duty to follow the law and conduct a hearing”).

The FCC has latitude on timing to issue a decision on LTD’s reconsideration request. For this reason, it is not prudent to defer action on LTD’s North Dakota ETC application and deny LTD the same process the Commission has afforded other ETC applicants. An abeyance of this proceeding could leave LTD in a holding pattern, with the Commission and the FCC effectively waiting for the other to act. A timely hearing on LTD’s ETC application is in the public interest because it ensures the matter will be resolved with appropriate process and in the most expeditious manner possible. LTD has been diligently prosecuting its application and preparing to appear before the Commission in support of its application. For the reasons set forth herein, LTD respectfully requests the Commission set the matter for hearing at the earliest convenience of the respective parties.

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)