

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

LTD Broadband LLC
Designated Eligible Carrier
Application

Case No. PU-21-168

ORDER

October 11, 2023

On May 7, 2021, LTD Broadband LLC (hereinafter "LTD") submitted an Application for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to section 214(e)(2) of the Communications Act of 1934. LTD's application sought designation as an ETC to avail itself of support from the Federal Universal Service Fund (USF), including support through the Federal Communications Commission's (FCC) high-cost USF program. The primary purpose of this designation was to enable LTD to access funding through the Rural Digital Opportunity Fund (RDOF) Auction for the deployment of broadband and voice communications services in unserved areas of North Dakota.

Following LTD's application submission, the Public Service Commission (PSC) received comments from The Broadband Association of North Dakota (BAND), which raised concerns regarding the suitability of the requested areas for broadband service deployment. BAND contended that these areas lacked adequate support levels from the FCC, rendering them economically challenging to serve. BAND further asserted that LTD did not possess the requisite network infrastructure capable of delivering the committed service levels and had failed to demonstrate its capability to do so.

Advocacy Staff conducted a review of LTD's application. Based on their assessment, Advocacy Staff concluded that it would not be in the public interest for North Dakota to grant ETC status to LTD. Advocacy Staff submitted that LTD lacked the technical and financial feasibility to construct the necessary infrastructure within the time frame stipulated by the FCC for the RDOF program. Consequently, Advocacy Staff recommended the denial of LTD's application.

Through its proceedings, the FCC had mandated that successful RDOF funding recipients must obtain ETC designation from each state they secured RDOF bids in by June 7, 2021. LTD failed to meet this crucial deadline. Subsequently, on October 20, 2021, the FCC denied LTD's request for a waiver of the deadline to provide documentation of ETC designation. In response, on November 19, 2021, LTD filed a petition for reconsideration with the FCC. Acknowledging that a denial of the FCC's petition for reconsideration could potentially render the proceeding moot, the PSC issued a Notice of Continuance. However, LTD did not submit any additional documentation or filings to the PSC during this period.

Upon reviewing the FCC's available filings pertaining to this matter, it was revealed that on August 10, 2022, the FCC concluded its review of LTD's application to deploy gigabit fiber in eleven states. The FCC determined that, based on a comprehensive evaluation of the long-form applications, the expansive service areas covered by the winning bids, and the inadequacy of LTD's responses, LTD was not reasonably capable of complying with the FCC's requirements.

Consequently, the FCC denied LTD's long-form applications and declared LTD to be in default on all winning bids that had not already been announced as defaulted. The FCC also dismissed as moot LTD's petition for reconsideration of the Bureau's denial of LTD's request for additional time to obtain an ETC designation in North Dakota.

On October 3, 2023, Advisory Staff reviewed the outstanding issues of the case and determined that the application was moot and recommended the Commission issue an order denying the application and closing the case.

The Commission has reviewed the recommendations of the Advisory Staff and reviewed the available information. The Commission concurs with the recommendation of Advisory Staff and therefore issues the following:

ORDER

LTD Broadband LLC's Application for Designation as an Eligible Carrier is DENIED.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Randy Christmann
Chair


Julie Fedorchak
Julie Fedorchak
Commissioner