

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
121 SEVENTH PLACE EAST
SAINT PAUL, MINNESOTA 55101-2147**

Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
John Tuma	Commissioner

In the Matter of LTD Broadband LLC's Petition for Eligible Telecommunications Carrier Designation in Minnesota	DOCKET NO. P-6995/M-18-653
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In the Matter of Broadband Corp.'s Petition for Eligible Telecommunications Carrier Designation in Minnesota	DOCKET NO. P-6994/M-18-665
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In the Matter of a Notice to Connect America Fund II Grant Winners	DOCKET NO. P-999/CI-18-634
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LTD BROABAND RESPONSE TO REQUEST FOR RECONSIDERATION

I. INTRODUCTION

On February 8, 2019 the Public Utilities Commission (Commission) issued an order granting ETC status for LTD Broadband (LTD) in Minnesota for a very small number of census blocks awarded in the CAF2 reverse "auction". We put auction in quotes because we want the commission to be aware that the FCC didn't hold a legitimate auction. Through inequity in the pre-bidding short form submissions, LTD was told that they could not bid the 100/20 speed tier because the individual engineer that evaluated our short form said that "fixed wireless at 100/20 was not considered credible and that we should bid at the 25/3 and 10/2 tiers". The inequity appeared when a different engineer that worked the Midco application made no such assertion and allowed Micdo to bid 100/20 using the exact same fixed-wireless technology as LTD (along

with Nextlink and CAL.net). This resulted on a 15 point scoring advantage for Midco. LTD was forced out of the auction at the 40% round with our bid of 1% of legacy subsidy amount. As such, there was really no auction for Minnesota. Midco was anointed to win before the auction began as the only bidder allowed to bid in Minnesota at the 100/20 tier using fixed-wireless. The scraps that were left for LTD Broadband in this “auction” are the few areas that Midco didn’t bid on. These are the small number of census blocks at issue in this proceeding – as are the scraps that our competitor Broadband Corp was awarded. It’s important to note that LTD provides 100/100 and 200/200 service today across most of our footprint of 1320 towers covering 40,000 square miles of Minnesota and Iowa. The FCC made a \$100 million mistake by incorrectly excluding LTD from bidding at the 100/20 tier in Minnesota, Iowa, Nebraska and Illinois. In Nebraska, Illinois and Iowa, the FCC anointed Nextlink to receive part of \$270 million funding under the exact same circumstances as Midco.

On February 19, 2019 the Department filed a reconsideration request alleging that the Commission does not have adequate consumer protection levers over LTD and Broadband Corp because we have chosen not to seek CLEC certificate authority. LTD disagrees with the Department and feels that the Department is simply upset with the Charter decision ruling that VoIP is an information service.

II. RECONSIDERATION REQUEST

We believe that the Commission ruled correctly that LTD’s VoIP service satisfies the FCC’s requirements of offering ETC eligible dialtone service including local, long distance and emergency calling including power backup during interruptions to grid power. The department’s objections are unique in the 3 states where LTD has received ETC certification and appears to come down to terminology.

There was a time that every automobile consumed petrochemical fuels exclusively. Now some cars consume electricity exclusively. In the same manner, there was a time when all competitive voice services were provided by CLECs. The advent of new technology has changed the landscape of what can be used to deliver reliable telephone service.

LTD will offer standalone voice service as required under the CAF2 auction rules. But LTD faces staunch competition from companies like Magic Jack that offer reliable voice service for \$39 per year (\$3.25/mo) including unmetered long distance service and emergency calling. Until now, LTD has chosen not to offer competitive voice service under our own brand because we believe this space is hyper-competitive with many excellent options. The Department alleges that customers in the ETC areas will also receive their dialtone services from LTD as if there are not any options – like a (round hole) legacy carrier. This is certain not to be the case, as hundreds of current LTD customers already receive VoIP service from one of the many competitive options available.

The Department's allegation that absent an additional order from the Commission, LTD will not be required to provide access to low income assistance is false. CAF2 program requirements for LTD to accept Lifeline payments in the awarded census blocks are clear.

LTD is required by CAF2 rules to restore service quickly following outages and has submitted detailed engineering documents to the FCC outlining how LTD will recover from network interruptions.

The allegation that without an additional order from the Commission, LTD will fail to accurately bill their customers nor remedy any potential issues is false. Accuracy in billing will be quite simple as LTD does not use revenue enhancing add-ons fees like EAS or federally allowed access recovery fees. Our VOIP service will be \$24.95, plus sales tax and 911 fees. LTD

will not allow carrier billing (cramming) or collect calls. The painting of LTD (square peg) with the brush of legacy carriers (round hole) is inappropriate.

The allegation that without an additional order from the Commission, LTD will fail to provide access to emergency services is false. CAF2 rules clearly require access to emergency services and LTD has made provisions with an underlying VOIP carrier to appropriately handle that traffic. LTD has also filed a 911 plan with DPS and the Metro 911 board.

The allegation that without an additional order from the Commission, LTD will fail to adequately service our customers is false. CAF2 rules have clearly outlined service quality standards and mandatory testing to verify our network quality and reliability to the FCC.

The allegation that without an additional order from the Commission, LTD customers will be unable to seek assistance from regulatory agencies is false. LTD has a clear record of responding to any complaint lodged with the FCC and will continue to do so. Additionally, LTD will respond to any complaint relayed from the Department or the Commission with the same responsiveness.

The FCC has a “big hammer” in the form of the standby letter of credit (SLOC) that can be drawn by the FCC in the event LTD fails to meet our obligations under the CAF2 program rules. This means that the FCC can take back every disbursed dollar of subsidy funding if they find LTD to not be in compliance of the program requirements. In fact, LTD will not have access to any of the subsidy money until 95% of our assigned locations are built out as banks require 100% cash security to perfect the SLOC.

The aforementioned “big hammer” is still firmly in the hands of the FCC without LTD obtaining CLEC certificate authority. If the Department or Commission find that LTD is failing to meet our obligations consistent with CAF2 rules – they act as a second “line of defense” beyond the FCC’s consumer complaint process. Both the Department and Commission can

notify the FCC of any alleged violation. LTD has the right to cure any alleged violation, but unless it is able to cure a violation, the entire subsidy amount is at risk.

The argument that sprinkling the holy water of “CLEC authority” on VoIP service is required, is nothing more than the Department chafing over the Charter ruling. The Department’s position that LTD can’t provide ETC eligible service using VoIP is nonsensical and (insomuch as we are aware) unique amongst state regulatory authorities. The Eighth Circuit labeling VoIP as an information service rather than a telecommunications service has no bearing on the service itself, but rather the regulatory regime under which it falls.

III. THE PUBLIC INTEREST IS SERVED BY LTD BEING ABLE TO OFFER STANDALONE VOIP SERVICE AS AN ETC

The Department goes to great lengths to make it appear as if LTD (square peg) must be a regulated telecommunications carrier within the legacy regulatory framework of semi-monopoly rural telephone carriers (round hole). The additional cost of regulatory compliance including tariff filings add no additional consumer protections. LTD is already bound by CAF2 rules that govern what is a permissible rate for our standalone VoIP offering.

The Department references TracPhone as an example the Commission must follow. LTD disagrees, as unlike TracPhone whose ETC eligible offerings would be solely governed by Minnesota pricing and service requirements, the FCC’s CAF2 program rules govern LTD’s rates and service requirements.

III. CONCLUSION

LTD recommends the Commission take no additional action with regard to the granting of ETC status. The Department has failed to show how additional regulatory hoops are in the public interest. The regulatory regime set forth by the FCC is more than sufficient to guarantee

compliance by any CAF2 participant regardless of regulatory status label assigned to LTD in State of Minnesota. Additionally, the Commission and Department's complaint divisions will have a ready and responsive ear from LTD if we fail in our obligations to our customers.

Most of the 140+ years of telecommunications services being provided in Minnesota have been dominated by regulated monopolies that have often behaved badly towards consumers. Regardless of the regulatory actions of the Commission, the largest driver of pro-consumer behavior on the part of service providers is something new to this history – true facilities-based competition. As a beneficiary of thousands of customers switching from legacy price-cap carriers, LTD is firmly invested in making our network and customer service experience as fast and reliable as possible.

LTD has observed that both the Commission and Department have been on the side of fostering competition for the past 20 years. Finally, that long sought competition is here in much of Minnesota.

Dated: February 26, 2019

COREY HAUER
CEO
LTD Broadband LLC

/s/ Corey Hauer
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AFFIDAVIT OF SERVICE

**Re: *In the Matter of LTD Broadband LLC's Petition for Eligible Telecommunications
Carrier Designation in Minnesota, Docket No: P-6995/M-18-653
In the Matter of Broadband Corp.'s Petition for Eligible Telecommunications Carrier
Designation in Minnesota, Docket No: P-6994/M-18-665
In the Matter of a Notice to Connect America Fund II Grant Winners,
Docket No: CI-18-634***

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, Corey Hauer, hereby state that on February 27, 2019, I filed by electronic eDockets the attached Response to the Minnesota Department of Commerce Request for Reconsideration, and eServed or sent by US Mail, as noted, to all parties on the attached service lists.

See attached service lists.

/s/ Corey Hauer
Corey Hauer

Subscribed and sworn to before me
on February 27, 2019.

/s/ Phuong Dinh Yo
Notary Public – Nevada
My Commission Expires April 20, 2022

SERVICE LIST

Docket No. P-6995/M-18-653

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Chavez	Linda	linda.chavez@state.mn.us	Department of Commerce	Electronic Service	No
Commerce Attorneys	Generic Notice	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	Yes
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Wahlberg	Dana	dana.wahlberg@state.mn.us	Department of Public Safety	Electronic Service	No
Wolf	Daniel P	dan.wolf@state.mn.us	Public Utilities Commission	Electronic Service	Yes

SERVICE LIST

Docket No. P-999/CI-18-634

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Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
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Denton	David	david.denton@state.mn.us	DPS ECN	Electronic Service	No
Dobson	Ian	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	Electronic Service	Yes
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				Service	
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Will	Anthony	anthonyw@broadband-mn.com	Broadband Corp	Electronic Service	No
Wolf	Daniel P	dan.wolf@state.mn.us	Public Utilities Commission	Electronic Service	Yes

Paper Service Member(s)

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