

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)
	)
<b>LTD Broadband, LLC</b>	) AU Docket No. 20-34
	) WC Docket No. 19-126
Petition to Deny Long Form Applications	) WC Docket No. 10-90
(FCC Forms 683) for Rural Digital Opportunity	)
Fund (“RDOF”) Phase I Auction Support in the	)
States of Minnesota and Iowa	)

**PETITION TO DENY**

The Minnesota Telecom Alliance (“MTA”) and the Iowa Communications Alliance (“ICA”) (collectively “the Midwest Petitioners”) hereby petition the Commission to deny the Long Form Applications (FCC Forms 683) of LTD Broadband, LLC (“LTD”) for Rural Digital Opportunity Fund Phase I Auction support (“RDOF I support”) for 18,110 Census Blocks (102,005 locations) in the State of Minnesota and 3,798 Census Blocks (12,916 locations) in the State of Iowa. The two applications were included on the spreadsheet referenced in the *Public Notice* (417 Long Form Applicants in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)), DA 21-170, released February 18, 2021; but there was no indication in the *Public Notice* or spreadsheet whether the LTD application has been determined to be acceptable or accepted for filing.

The Midwest Petitioners are aware that Subpart J (Rural Digital Opportunity Fund) of Part 54 of the Commission’s Rules does not explicitly mention petitions to deny RDOF Long Form Applications – neither establishing requirements and deadlines for their submission nor prohibiting them. To the extent that petitions to deny the subject LTD application are not authorized, they ask that the present filing be considered as an Informal Request for Commission action pursuant to Section 1.41 of the Rules.

MTA is a trade association comprised of more than 40 rural telecommunications companies across Minnesota. MTA members range from family-owned companies and local cooperatives with storefronts on Main Street Minnesota to companies with multi-state operations.

ICA is a trade association comprised of more than 115 community-based broadband providers across Iowa. ICA members serve more than 705 Iowa communities with a combination of networks using fiber-to-the-home, copper-based facilities, fixed wireless, and cellular service.

The members of both of the Midwest Petitioners provide voice, video, and high-speed Internet access service throughout rural Minnesota and Iowa. Most MTA and ICA members have constructed and are operating fiber-to-the-home (“FTTH”) and other predominately fiber-based networks that provide very high-speed broadband services throughout their existing rural service areas.

Many members of MTA and ICA – either bidding themselves or as members of consortia – participated in the RDOF Phase I Auction. They continue to be ready, willing and able to extend their existing fiber optic networks to provide low-latency, very high-speed broadband services (such as one Gigabit per second (“Gbps”) downstream, 500 Megabits per second (“Mbps”) upstream service) to locations in many of the Minnesota and Iowa areas that apparently were won by the very low bids placed by LTD.

Put simply, there is no indication that LTD has the technical, engineering, financial, operational, management, staff, or other resources to meet RDOF build-out and service obligations with respect to the 21,908 census blocks (114,921 locations) that it has won in Minnesota and Iowa – whether considered in isolation by themselves or whether considered in conjunction with the overall 92,092 census blocks (528,088 locations) that LTD won in the fifteen (15) states where it was the low RDOF I bidder in various areas.

Whereas the Midwest Petitioners will present evidence for the Commission to consider, the burden of proof must be placed upon LTD to demonstrate that it can meet the service obligations that it has undertaken in return for the \$311.9 million (\$311,877,936.40) of RDOF support it has bid to receive in Minnesota and the \$23.2 million (\$23,184,786.30) it has bid to receive in Iowa, as well as the overall \$1.3 billion (\$1,321,920,718.60) it has bid to receive in all fifteen states. If LTD is not able to meet its build-out and service obligations for the RDOF I support that it has bid upon, over 100,000 rural Minnesota locations (102,005) and almost 13,000 rural Iowa locations (12,916) [not to mention over 400,000 locations (413,167) in thirteen other states] will be deprived of urgently needed high-speed broadband access for years while the degree and consequences of LTD's non-compliance are litigated or otherwise determined, and while mechanisms are developed and implemented to encourage qualified alternative broadband service providers to serve these areas instead of LTD.

LTD does not presently offer residential broadband speeds anywhere close to the RDOF Gigabit service tier (1 Gbps downstream/500 Mbps upstream) that it proposed in order to "win" its Minnesota and Iowa markets. Examination of LTD's website indicates that its residential broadband service offerings consist of four tiers with speeds far below the RDOF Gigabit performance tier. Rather, LTD offers the following four service and pricing plans for fixed wireless service: (1) Faster (6 Mbps downstream/1 Mbps upstream); (2) Family (10 Mbps downstream/2 Mbps upstream); (3) Ultra (25 Mbps downstream/3 Mbps upstream); and (4) Home Office (35 Mbps downstream/7 Mbps upstream). LTD claims that business dedicated speeds of up to 10 Gbps are "available," but does not indicate the areas or extent to which they are provided or what technology it uses to provide them.<sup>1</sup>

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<sup>1</sup> [www.ltdbroadband.com/plans](http://www.ltdbroadband.com/plans) (visited March 6, 2021).

LTD states that it was founded in 2011, and claims that it is “the 4<sup>th</sup> largest fixed-wireless WISP in the US.”<sup>2</sup> In contrast, the BROADBANDNOW website indicates that LTD is the 33<sup>rd</sup> largest fixed wireless broadband provider in the United States by coverage area.<sup>3</sup> Whatever its actual ranking in the Wireless Internet Service Provider (“WISP”) industry, LTD is a very small company owned by a single individual. As recently as February 25, 2019, LTD requested (and was later granted) a waiver of the CAF Phase II Auction deadline for filing audited financial statements on the grounds that it was a small business with a limited number of employees and administrative resources, that it was not audited in the ordinary course of business, and that its efforts to retain and engage accountants within the required time frame were unsuccessful. *Connect America Fund Phase II Auction*, WC Docket No. 10-90 and AU Docket No. 17-182, 34 FCC Rcd 7060 (released August 9, 2019). There is no indication that LTD has grown during the last 19-to-24 months from a company that was: (a) too small to have audited financial statements or even to rapidly retain a qualified accounting firm to conduct such an audit, to (b) an entity that is now able to engineer, construct and operate FTTH or other predominately fiber optic networks to serve over half of a million locations in scattered areas of fifteen states.

In the same CAF Phase II Auction, LTD won limited amounts of support in five states (Minnesota, Iowa, Illinois, Nebraska and Nevada), but defaulted in two of them (Nebraska and Nevada). In *LTD Broadband, LLC*, Notice of Apparent Liability for Forfeiture, File No. EB-1HD-19-00029977, DA 19-950, released October 11, 2019, the Enforcement Bureau fined LTD \$3,563 for defaulting on “winning” CAF Phase II Auction bids that it had placed for one Census Block Group in Nebraska and one Census Block Group in Nevada. In doing so, the Bureau rejected

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<sup>2</sup> [www.ltdbroadband.com/about](http://www.ltdbroadband.com/about) (visited March 6, 2021).

<sup>3</sup> [www.broadbandnow.com/LTD-Broadband](http://www.broadbandnow.com/LTD-Broadband) (visited March 6, 2021).

LTD's excuse that it had been unable to obtain designation as an Eligible Telecommunications Carrier in either Nebraska or Nevada.

LTD also appears to have unsuccessfully sought Rural Broadband Experiment funding from the Commission. By *Public Notice* (Wireline Competition Bureau Announces Entities Provisionally Selected for Rural Broadband Experiments; Sets Deadlines for Submission of Additional Information), WC Docket No. 10-90, DA 14-1772, released December 5, 2014, LTD was listed in Attachment A as a "provisionally selected bidder" for a \$20 million project to serve 10,122 census blocks in Minnesota and Iowa. There appears to be no further mention of LTD in the subsequent Rural Broadband Experiment orders and notices. LTD received no Rural Broadband Experiment funding. It is not clear whether the Commission dismissed, denied or otherwise did not approve LTD's proposed project, or whether LTD withdrew or failed to prosecute its Rural Broadband Experiment application.

LTD has been criticized by the Minnesota Department of Commerce ("MDC") for failure to comply with its obligations to advertise Lifeline service to eligible customers within its Minnesota service areas. In comments filed January 8, 2021 in the Minnesota Public Utilities Commission's ("MPUC's") Docket No. P999/CI-20-747 (*Inquiry into Advertising, Outreach and Offering of Lifeline by High Cost ETCs*), the MDC noted that LTD had no information on its website concerning Lifeline services even though it was obligated to do so as the recipient of federal funds as a winner in the CAF Phase II auction (Auction 903).<sup>4</sup> In fact, the MDC noted that LTD had not bothered even to file comments or provide information in response to the MPUC's Lifeline Inquiry.<sup>5</sup>

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<sup>4</sup> Comments of the Minnesota Department of Commerce, MPUC Docket No. P999/CI-20-747, January 8, 2021, at p. 9.

<sup>5</sup> Id. at p. 4 note 10.

LTD does not have a good reputation or record of service with its Minnesota customers. The Better Business Bureau (“BBB”) gives LTD’s Minnesota operations a failing “F” rating, and indicates that LTD is “not BBB accredited.” BBB states that the reasons for its “F” rating are: (1) Failure to respond to 1 complaint filed against business; (2) 14 complaints filed against business; and (3) Length of time business has been operating. Although BBB states that customer ratings are not used in the calculation of BBB ratings, it gives LTD a 1.1-star customer rating on a 5-star scale on the basis of an average of nine (9) customer reviews. Finally, BBB notes that it has received fourteen (14) customer complaints against LTD during the last three years, and nine (9) customer complaints against it during the last twelve months.<sup>6</sup>

LTD, like most WISPs, does not appear to have a very large technical or administrative staff either in Minnesota or Iowa or in the other states where it provides existing wireless Internet access services. MTA has heard reliable reports that LTD has approached at least one engineering firm to develop its Minnesota RDOF fiber network, and been told that the engineering firm had nowhere near the available capacity to handle the LTD project on top of its existing clients and commitments. MTA is not asserting that LTD’s Long Form application(s) should be denied on the basis of assumptions or industry hearsay. However, MTA is aware of no evidence whatsoever that LTD possesses the technical, operational or administrative staff resources to build and run a 102,005-location broadband network and company in Minnesota, much less a 528,088-location broadband network and company in fifteen states. In reviewing LTD’s Long Form applications, the Commission should not accept “blue sky” promises that sufficient staff will be hired at some future time, but rather should impose upon LTD the burden of proving that very substantial progress has already been made in hiring the large technical, operational and administrative staff

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<sup>6</sup> [www.bbb.org/albert-lea/profile/internet-service/ltd-broadband-0704-1000030372](http://www.bbb.org/albert-lea/profile/internet-service/ltd-broadband-0704-1000030372) (visited March 8, 2021).

needed to build and run the proposed Minnesota and Iowa RDOF networks and those in the other thirteen states.

LTD also appears to face a very substantial financial hurdle to build its Minnesota and Iowa RDOF broadband networks, as well as its other thirteen state RDOF broadband networks. Given LTD's minimal current broadband facilities and the scattered and non-contiguous nature of many of the Census Block Groups that it "won," it is reasonable to estimate that it will cost LTD about \$5,000 to \$8,000 per location to build the various RDOF broadband networks. This means a likely construction cost from \$510.0 million to \$816.0 million for LTD to build its committed Minnesota RDOF network and from \$64.6 million to \$103.3 million for LTD to build its committed Iowa RDOF network. Overall, the estimated construction costs of all fifteen of LTD's RDOF state networks range from \$2.6 billion to \$4.2 billion. The Midwest Petitioners do not have access to LTD's financial statements, but it is a relatively safe bet that LTD does not have liquid assets anywhere near the size of the amount needed to fund the estimated network construction costs, nor is it likely to have sufficient plant and other assets that would be acceptable as collateral for debt financing. A third possibility – selling up to a 49.9 percent non-controlling interest in LTD to new equity investors – is unlikely because LTD pushed the RDOF support revenue stream so low that most potential minority investors will not be able to expect sufficient returns to make the investment attractive. MTA notes that this dim financial evaluation is limited to the cost of constructing the proposed RDOF networks, and does not include the funds necessary to operate them for the start-up periods before cash flow becomes positive. Again, these are reasonable estimates and scenarios, but are the best that MTA and ICA can do in the absence of access to the

specific financial and technical proposals in LTD's Long Form applications.<sup>7</sup> Ultimately, the Commission must place a substantial and stringent burden of proof on LTD to demonstrate reasonable, workable and detailed technical plans for constructing and operating its RDOF broadband networks (including existing or substantially negotiated arrangements with vendors, lessors and transport providers), and to show that it has clear and certain access to the financial resources necessary to meet the realistic and detailed costs of such technical plans.

On January 19, 2021, a bipartisan, bicameral letter was sent to former Chairman Ajit Pai by 160 members of Congress urging the Commission to thoroughly vet the winning bidders in the RDOF I auction to ensure that they can deliver the broadband services they have promised to unserved consumers. In relevant part, the letter emphasized:

As responsible stewards of USF funds, we ask that the FCC redouble its efforts to review the long-form applications that will now be submitted. We urge the FCC to validate that each provider in fact has the technical, financial, managerial, operational skills, capabilities, and resources to deliver the services that they have pledged for every American they plan to serve regardless of the technology they use. We also strongly encourage the FCC to make as public as possible the status of its review and consider opportunities for public input on the applications. Such transparency and accountability will be essential to ensure the success of this program and to minimize any opportunities for fraud or abuse.<sup>8</sup>

On February 11, 2021, the Board of Directors of the National Association of Regulatory Commissioners ("NARUC") passed a resolution at its 2021 Winter Policy Summit that urged:

...the FCC to closely scrutinize the long-form applications of RDOF support winners to ensure that each provider does in fact have the technical, financial, managerial, operational skills, capabilities and resources to deliver the services they have pledged for every American they plan to serve regardless of the technology they use.

Finally, there have been rumors in the trade press and the industry that some RDOF I winners may be asking or planning to ask the Commission to change the RDOF I auction rules

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<sup>7</sup> MTA and ICA may request leave to supplement this petition if the Commission's response to the Ensuring RDOF Integrity Coalition ("ERIC") petition establishes a mechanism for review of currently proprietary and confidential financial and technical materials in certain Long Form applications.

<sup>8</sup> Bicameral Letter on RDOF (Clyburn Walberg Klobuchar Thune), January 19, 2021.

retroactively to allow them to receive support for broadband speeds less than the Gigabit services that they bid upon and “won.” If that were to happen, it would be a travesty of the RDOF rules and encourage game-playing and deceit in future auctions. In Minnesota and Iowa, MTA and ICA members were ready, willing and able to provide the Gigabit service tiers that they proposed. If an entity were allowed to propose Gigabit service, bid support levels down to unreasonably low levels to force out *bona fide* Gigabit service providers, and then be allowed to avoid the consequences of its bid strategy by switching to a lower speed service or different technology, it would not only be cheating the *bona fide* Gigabit bidders, but also be depriving thousands of households of high-speed broadband service that they otherwise could have had.

For all the foregoing reasons, the Commission is requested to subject LTD to a stringent burden of proof that it has the technical, financial, managerial, operational and administrative resources to deliver the Gigabit services that it has proposed for 102,005 locations in Minnesota and 12,916 locations in Iowa, not to mention 413,167 locations in thirteen other states; and, if LTD does not satisfy that burden of proof, to deny LTD’s subject Minnesota Long Form application, LTD’s subject Iowa Long Form, as well as other LTD Long Form applications.

Respectfully submitted,

**MINNESOTA TELECOM ALLIANCE    IOWA COMMUNICATIONS ALLIANCE**

By: /s/ Brent J. Christensen

Brent J. Christensen, President/CEO  
1000 Westgate Drive, Suite 252  
St. Paul, MN 55114  
(651) 288-3723  
[brentc@mnta.org](mailto:brentc@mnta.org)

By: /s/ David C. Duncan

David C. Duncan, CEO  
4201 Westown Parkway, Suite 130  
West Des Moines, IA 50266  
(515) 867-2091  
[dduncan@iacommunicationsall.com](mailto:dduncan@iacommunicationsall.com)

Counsel: Gerard J. Duffy

Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP  
2120 L Street NW, Suite 300  
Washington, D.C. 20554  
(202) 828-5528  
[gjd@bloostonlaw.com](mailto:gjd@bloostonlaw.com)

**CERTIFICATE OF SERVICE**

I, Gerard J. Duffy, certify that the foregoing “Petition To Deny” was sent via electronic mail to the following representatives of LTD Broadband, LLC on Monday, March 22, 2021:

Kristopher E. Twomey  
Law Office of Kristopher E. Twomey, P.C.  
1775 I Street NW, Suite 300  
Washington, DC 20006  
Email: [kris@lokt.net](mailto:kris@lokt.net)

Corey Hauer, CEO  
LTD Broadband, LLC  
P.O. Box 3064  
Blooming Prairie, MN 55917  
Email: [coryhauer@ltdbroadband.com](mailto:coryhauer@ltdbroadband.com)

/s/ Gerard J. Duffy