



TELEPHONE: (931) 668-4131 • WEBSITE: www.blomand.net
311 North Chancery Street • P. O. Box 670 • McMinnville, Tennessee 37111-0670

March 23, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45; Section 54.313 Filing Ben Lomand Rural Telephone
Cooperative, Inc.

**THIS FILING CONTAINS CONFIDENTIAL
INFORMATION TO BE WITHHELD FROM
PUBLIC DISCLOSURE**



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Re: CC Docket No. 96-45; Section 54.313 Filing Ben Lomand Rural Telephone
Cooperative, Inc.

Dear Ms. Dortch:

Attached hereto are documents outlining a five year construction and service improvement plan for the Ben Lomand Rural Telephone Cooperative, Inc. (the "Company") filed pursuant to FCC Rules and Regulations, 47 C. F. R; Section 54.313.

This filing updates all documents filed last September 22, 2011 for this same purpose (47 C. F. R; Section 54.209). In that filing, certain data was identified and was requested for "confidential" treatment. Like that filing, the Company again has indentified and is requesting confidential treatment of certain information, and that information be withheld from public inspection. A copy of that letter, and a sworn affidavit attesting to the confidentiality of the revised data in this filing is attached.

Sincerely,

A handwritten signature in black ink that reads "Martin Clift". The signature is written in a cursive, slightly slanted style.

Martin Clift
Regulatory Manager
270-674-1000
mclift@wk.net

DECLARATION

I, Trevor Bonnstetter, CEO of Ben Lomand Rural Telephone Coop, Inc. (the "Company"), do hereby declare under penalties of perjury that I have read the foregoing "Letter Requesting Confidential Treatment" and the information contained therein regarding the Company is true and accurate to the best of my knowledge, information, and belief.



Trevor Bonnstetter
Chief Executive Officer

March 23, 2012



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FCC CC Docket No. 96-45
Section 54.313

Certification of
Ben Lomand Rural Telephone Coop., Inc.
March 23, 2012

Attachment A
Current Year Major Construction Projects

Page 1 of 2

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<u>Estimated Start Date</u>	<u>Estimated Completion Date</u>	<u>Affected Wire Center Exchange</u>	<u>Description</u>
06/01/10	06/30/13	931-394 Beech Grove	In 2010, we purchased and installed equipment to upgrade connectivity to the McMinnville host for Beech Grove. In 2011, the company upgraded switching and is planning to install copper and fiber in 2012 and 2013 for an approximate total cost of \$1,500,000 for shorter loops and higher quality of service. The company estimates that approximately 950 customers will be served with this improvement.
01/01/11	12/31/12	931-935 Bondecroft	This project was started in calendar year 2011. As such, the company plans to rebuild this Wire Center with an approximate cost of \$1,500,000 replacing copper, adding fiber, and upgrading switching in order to improve service. The company estimates that approximately 860 customers will be served with this improvement.

¹ As a rural Incumbent Local Exchange Carrier, the amount of the Company's investment that will be recovered from federal high cost support will be determined by the application of the specific FCC rules.

FCC CC Docket No. 96-45
Section 54.313

Certification of
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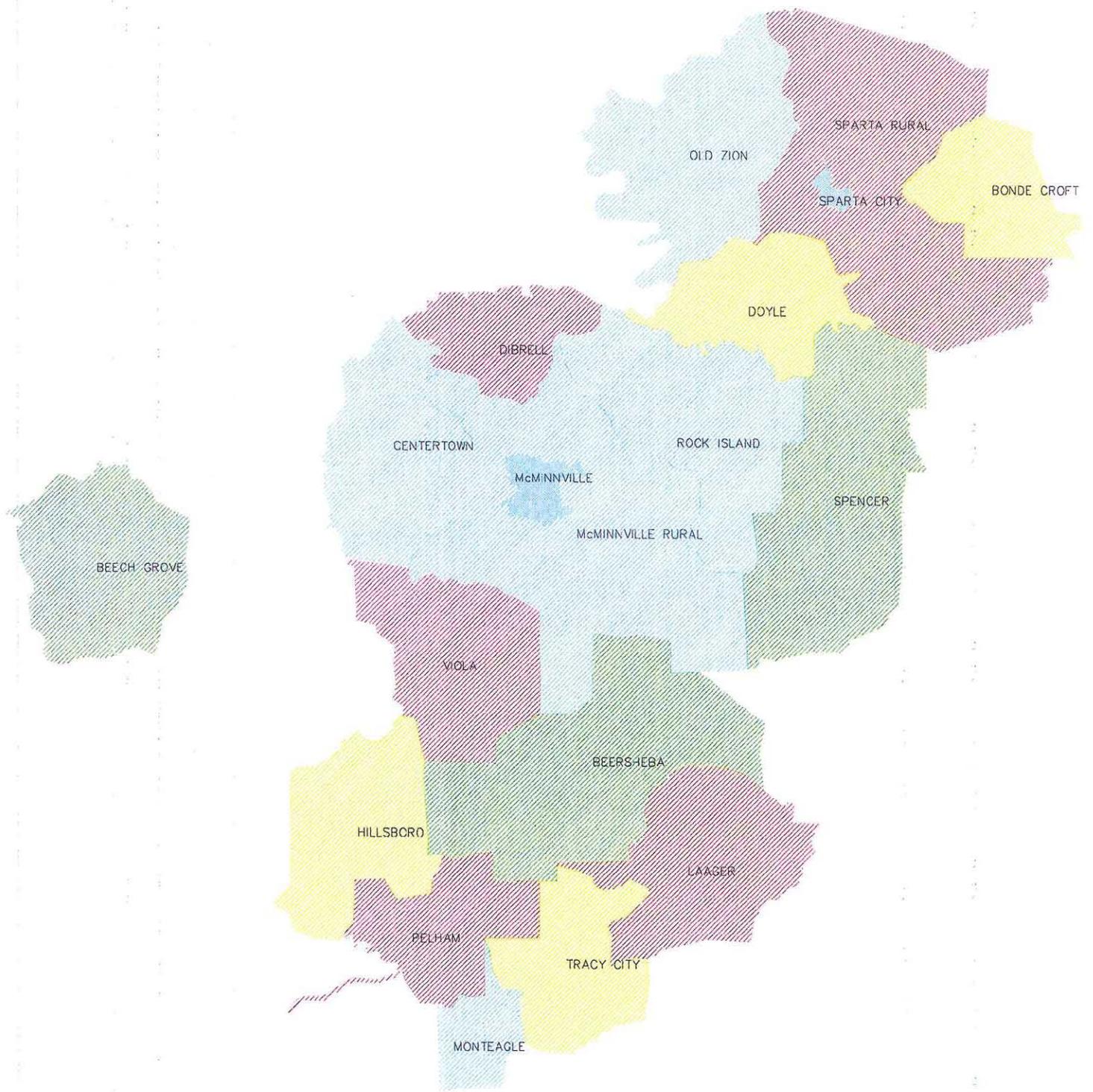
Attachment A
Current Year Major Construction Projects

Page 2 of 2

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<u>Estimated Start Date</u>	<u>Estimated Completion Date</u>	<u>Affected Wire Center Exchange</u>	<u>Description</u>
06/01/10	06/30/12	931-946 Spencer	Efforts are nearing completion to rebuild this Wire Center with an approximate cost of \$1,300,000 replacing copper, adding fiber, and upgrading switching in order to improve service. ¹ The company estimates that approximately 1,400 customers will be served with this improvement, including the deployment of new facilities and other rebuilding as new subdivisions have been constructed.
10/01/09	06/30/12	931-692 Beersheba	Efforts began in 2009 to rebuild this Wire Center and it is expected to be completed in 2012 at an approximate cost of \$1,400,000. ¹ This project consists of replacing copper, adding fiber, and upgrading switching in order to improve service. The company estimates that approximately 1,500 customers will be served with these improvements.

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DENVER OFFICE
SUITE 730
1512 LARIMER STREET
DENVER, COLORADO 80202-1610
TELEPHONE 303-606-6700
FAX 303-606-6701

WOODS AITKEN

L L P

SUITE 200
2154 WISCONSIN AVENUE, NW
WASHINGTON, D.C. 20007
TELEPHONE 202-944-9500
FAX 202-944-9501

www.woodsaitken.com

LINCOLN OFFICE
SUITE 500
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2578
TELEPHONE 402-437-8500
FAX 402-437-8558

OMAHA OFFICE
SUITE 525
10250 REGENCY CIRCLE
OMAHA, NEBRASKA 68114-3754
TELEPHONE 402-898-7400
FAX 402-898-7401

THOMAS J. MOORMAN

Direct Dial: 202-944-9502
E-Mail: tmoorman@woodsaitken.com
*Admitted to practice only in the District of
Columbia*

September 22, 2011

FILED/ACCEPTED

Stamp and Retain

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

SEP 22 2011

Federal Communications Commission
Office of the Secretary

**Re: Section 54.209 Filing of
Ben Lomand Rural Telephone Coop, Inc.**

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September 22, 2011

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Ben Lomand Rural Telephone Coop, Inc.
Request for Confidential Treatment of Certain Data in
Conjunction with Section 54.209 Filing**

Dear Ms. Dortch:

This letter is submitted in connection with the attached filing of Ben Lomand Rural Telephone Coop, Inc. (the "Company") dated September 22, 2011 in conjunction with the filing made by the Company regarding its five year construction and service improvement plan envisioned by Section 54.209 of the Commission's Rules (the "Plan").¹

Pursuant to 47 C.F.R. § 0.0459 of the Commission's Rules, the Company, by Counsel, hereby requests that certain of the information cross-referenced in the Plan and attached hereto be withheld from public inspection. Specifically, the Company requests that information attached hereto and as required to be submitted in order to be fully responsive to 47 C.F.R. § 54.209(a)(1) be withheld from public inspection because that information contains trade secrets and commercial, financial, and technical data that is guarded from disclosure to competitors and the public in the normal and ordinary course of business.

Section 54.209(a)(1) of the Commission's rules require certain Eligible Telecommunications Carriers ("ETCs") to update a five-year service quality improvement plan, including: maps identifying progress towards meeting plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. ETCs are required to submit this information at the wire center level. In the case of the

¹ For the reasons stated in the separate Section 254(e) submission regarding its submission of the information required by 47 C.F.R. § 54.209 of the Commission's Rules, that submission and this filing are made without waiver of its the Company's rights with respect to the applicability to it of the requirements of Section 54.209. See "47 C.F.R. §54.209 Information Submission of Ben Lomand Rural Telephone Coop, Inc. in Support of Section 254(e) Certification for Calendar Year 2012" at 1.

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
September 22, 2011
Page 2

Company, the submission in Attachment A of its Plan constitutes the Company's current major construction projects as further described and noted in its Plan and, as such, includes estimated capital expenditures for each project, estimated number of customers who will be affected by such projects, and time frames within which such projects will be initiated and concluded (the "Attachment A Information").

The Company respectfully submits that this Attachment A Information is competitively sensitive and is a "trade secret" which has been defined as "information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it." *See* Restatement of Torts §757 (1939). The Attachment represents the Company's collective experience, thought, analysis, and planning based upon the Company's opinion of market trends, conditions, technologies, and customer preferences arising out of, *inter alia*, the Company's existing operations within the rural areas it serves in Tennessee. Just as would be the case for one of its competitors and that competitor's experience, the cumulative effect of this effort affords the Company "an advantage over competitors" that do not have access to the information.

Disclosure of the Company's improvement and upgrade plans, time frames, and affected customers would provide competitors with the views and insights of the Company and its business planning during the five years as to those network upgrades and capabilities that the Company believes are necessary to meet its service commitments and retention of customers. Improper public access to this Company information would enable existing and potential competitors to respond preemptively and unfairly by utilizing internal Company information that is guarded closely and not disclosed to third parties during the normal and ordinary course of business. Public access to the Company's Attachment A Information, therefore, would enable competitors to tailor marketing and/or entry strategies in a manner that would not be possible but for the provision of this Attachment A Information to the Commission. Thus, competitors would be able to target and/or modify their competitive service plans to take advantage of those locations where projects are not underway, or plan for competitive offerings in those areas where the Company's deployment plans are known but for which the competitor had no plans previously.

Such results, in the Company's view, would be inconsistent with the competitive goals of the Act. In general, competition is the "effort of two or more parties, acting independently, to secure the business of a third party by the offer of the most favorable terms." *Black's Law Dictionary*, Sixth Ed. West Publishing Co., St. Paul, MN (1991). By contrast, utilization of trade secrets by a firm in order to gain market share would ignore a fundamental principle of competition, specifically, the pursuit of consumers by two or more parties "acting independently." Disclosure of the trade secrets contained in Attachment A would be inconsistent with the competitive objectives of the 1996 revisions to the Communications Act of 1934, as amended (the "Act"), as the disclosure would allow access to the Company's Attachment A Information that would not otherwise be independently available to one of its competitors.

Accordingly, pursuant to Section 0.459(b) of the Commission's rules, the following is provided in support of this request:

(1) Identification of the specific information for which confidential treatment is sought.

The Company seeks confidential treatment of the following Attachment A Information:

- (a) the time frames for initiation and completion of major construction projects;
- (b) the description of each project;
- (c) estimated investment for each project; and
- (d) the number of estimated affected customers associated with each project.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

Without waiver as to its applicability to the Company (*see* n.1, *supra*), the information is submitted as a result of Section 254 of the Act, *In the Matter of Federal-State Joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, FCC 05-46, released March 17, 2005, and pursuant to 47 C.F.R. §54.209.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The Attachment A Information is commercial and financial information, and contains trade secrets in that it reveals the Company's planned timing of, expenditures associated with, and customer impacts arising from its major network infrastructure projects. This information is highly confidential because it describes the Company's plans for the network, including: the estimated schedule for such projects; the wire centers included in such projects; an explanation of projects known or scheduled to be underway in the future, as well as planned construction projects currently underway; the estimated cost of the projects; and the estimated number of customers to be affected by the project.

(4) Explanation of the degree to which the information concerns a service that is subject to competition.

The information concerns planning for the provision for local exchange service, which is a competitive service under the local competition provisions of the Act.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

In addition to those points raised in response to Subsection 1, above, disclosure of the Attachment A Information could result in substantial competitive harm by revealing to competitors the nature and extent of the Company's business plans to continue to provide the quality of service over its network that has enabled the Company to retain its existing customer base. This information, therefore, would enable competitors to discover unfairly the Company's existing plans with respect to those projects it has decided are necessary to ensure continued high quality service throughout its service area. As explained above, the information submitted describes the Company's plans with respect to the construction or upgrade projects associated with existing plant; the cost of such construction or upgrades; the timing of such construction or upgrades; and the number of customers to be affected. Thus, the Attachment A Information would provide existing and potential competitors of the Company keen insights into the Company's infrastructure plans. Those insights, in turn, would enable such competitor to craft or update its business plan to target those areas where it believes the growth of market share can occur vis-à-vis the Company's non-upgraded facilities or to target its own investment in those areas where, but for the Company's Attachment A Information, the competitor would not have seen the need to invest to retain or gain market share. In such a circumstance, the competitor would be able to "game" the market place by understanding where its competitor – the Company – believes network improvement dollars are best spent as well as the timing of such decision. Such results do not encourage fair competition nor support fair competition. Rather, such action would undermine competition by enabling competitors to acquire competitively sensitive information of the Company that would improperly assist that competitor's effort to gain customers, not as a result of that competitor's own decision making and capabilities but as a result of access to commercially sensitive information from the Company that reflects the Company's decision making and capabilities.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

The Attachment A Information submitted by the Company is generally protected to prevent unauthorized disclosure. Disclosure of this information is limited solely to internal corporate discussions and, where necessary, disclosure to vendors or others whose participation is necessary to plan or implement such projects (and such disclosure is made subject to a professional confidentiality obligation).

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

The Attachment A Information is not published, nor provided to the public, nor included in any publicly-available documents or materials of the Company. The information has not been

disclosed to third parties unless such disclosure is subject to a professional confidentiality obligation.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

The Company submits that the Attachment A Information should be treated as confidential on a permanent and on-going basis. The Attachment A Information discloses and reveals the Company's strategy, and provides competitively sensitive information in that it reveals the Company's approach to network upgrades and improvements. The information should be treated as confidential even after the five-year period described in Attachment A has passed since, to the extent exogenous events or changed business plans alter the schedules or outcome of the network upgrade plans described therein, those descriptions and plans may be wholly relevant and applicable in a successive time period.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

The requested treatment of this information as confidential and proprietary by the Commission is consistent with the Commission's policies in addressing other submissions that contained competitively sensitive information. For example, the Commission recognized in *Local Competition and Broadband Reporting, Report and Order*, CC Docket No. 99-301, FCC 00-114 (rel. Mar. 30, 2000) ("*477 Order*") that information submitted with Form 477 (Local Telephone Competition/Broadband Reporting) (the "Form") implicated concerns related to the disclosure of competitively sensitive data. The Form requires information regarding the type of technology used to deliver broadband services, including total connection to end-users, information transfer rates, and an estimate of the percentage of residential end-user premises in the provider's service area to which the provider's broadband connections could be provided using installed distribution facilities. The Commission requires the information because it "conclude[d] that the answers to these questions are necessary to describe and understand the state of competition for local telephone services and the deployment of broadband services in diverse areas of the nation." *Id.* at ¶62.

At the same time, however, the Commission also recognized "concern over the potential for competitive harm that release of the gathered data could cause." *Id.* at ¶88. While stating that it was not "making a prospective decision about whether these data elements would satisfy the Commission's standard for non-disclosure," the Commission also stated that it would "not . . . publish in our publicly available reports individual provider-filed data for the broadband (Part 1) portion of the Form, *even where providers do not seek non-disclosure of this data.*" *Id.* at ¶91 (emphasis added). In fact, rather than require carriers to submit a detailed and specialized request with the Form, the Commission offers filers a "check-box" on the Form in order to "mak[e] it easier for providers to request confidential treatment of their data." *Id.* at ¶90. This

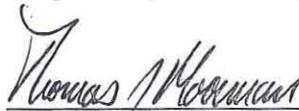
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Page 6

same approach – the checking of a box to assert confidentiality – is also available to filers of the financial information required by the submission of the FCC’s FCC Form 499-A and FCC Form 499-Q. *See* 2009 FCC Form 499-A, line 605 and Instructions to the Telecommunications Reporting Worksheet, Form 499-A at 33; *see also* FCC Form 499-Q, line 121 and Instructions for Completing the Quarterly Worksheet for Filing Contributions to Universal Service Support Mechanisms at 22.

The Company respectfully submits that similar concerns attend the instant submission. The Commission has recognized previously the competitively-sensitive nature of carrier data; the data related to current and future plans of Company construction projects reflected in the Attachment A Information is at least as, if not more, competitively-sensitive than the type submitted in the Form. Unlike the Form 477 Information which describes current broadband capabilities and FCC Form 499-A regarding prior year revenues and FCC Form 499-Q regarding prior quarter and projected quarter revenues, the Attachment A Information reflects the Company’s reasoned business decision making as to future actions that it believes are necessary to ensure quality service over its network.

Therefore, for all of the reasons stated above, the Company respectfully requests the Commission to recognize that the Attachment A Information for which confidential treatment is requested, described above, be withheld from public inspection. Pursuant to Section 0.459(a) of the Commission’s rules, the materials to which this request applies are submitted physically separated from any materials to which the request does not apply. Moreover, redacted pages are provided with “public copies,” and pages containing confidential information are marked “Confidential.”

Respectfully submitted,



Thomas J. Moorman

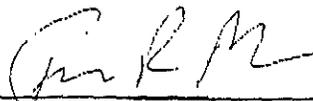
Counsel for

Ben Lomand Rural Telephone Coop, Inc.

cc: T. Bonnstetter

DECLARATION

I, Trevor Bonnstetter, CEO of Ben Lomand Rural Telephone Coop, Inc. (the "Company"), do hereby declare under penalties of perjury that I have read the foregoing "Letter Requesting Confidential Treatment" and the information contained therein regarding the Company is true and accurate to the best of my knowledge, information, and belief.



Trevor Bonnstetter
Chief Executive Officer

Date: September 22, 2011

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01/01/11	06/30/12	931-935 Bondecroft	This project was started in calendar year 2011. As such, the Company plans to rebuild this Wire Center with an approximate cost of \$1,500,000 replacing copper, adding fiber, and upgrading switching in order to improve service. The Company estimates that approximately 855 customers will be served with this improvement.

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Attachment A
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10/01/09	06/30/12	931-692 Beersheba	Efforts began in 2009 to rebuild this Wire Center and it is expected to be completed in 2012 at an approximate cost of \$1,400,000. ¹ This project consists of replacing copper, adding fiber, and upgrading switching in order to improve service. The Company estimates that approximately 1,500 customers will be served with these improvements.

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