



Ensuring RDOF Integrity Coalition

VIA EMAIL (l.retz@kcc.ks.gov)

May 25, 2021

Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027  
Attn: Lynn M. Retz, Executive Director

Re: LTD Broadband, LLC; Docket No. 21-LTDT-430-ETC

The Ensuring RDOF Integrity Coalition (ERIC) is a coalition consisting of rural broadband providers, rural Americans, and local government officials including those residing in Kansas who have joined together to work to ensure that the Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund ("RDOF") proceeding will result in timely broadband service to rural America. ERIC has raised concerns with the FCC about the ability of LTD Broadband, LLC ("LTD"), a winning bidder in the FCC's RDOF Phase I auction, to fulfill its promised Gigabit service due to limitations in wireless technology and with its ability to provide Gigabit service with the limited funding level provided by the FCC.<sup>1</sup>

ERIC has become aware that LTD on May 19, 2021 filed an *Application for Designation as an Eligible Telecommunications Carrier for the Purpose of Providing Services Supported by the FCC's Rural Digital Opportunity Fund* ("ETC Application") with the Kansas Corporation Commission ("KCC").<sup>2</sup> This ETC Application is more than four months past the safe harbor deadline of January 7, 2021 established by the FCC. Despite this eleventh-hour filing, LTD is nevertheless requesting that the KCC provide expedited review by the FCC's June 7, 2021 deadline to demonstrate that LTD has obtained the requisite ETC designation in its Kansas RDOF-funded areas.<sup>3</sup> This untimely filing is demonstrative of why LTD needs to be more fully vetted. In short, ERIC is concerned that LTD does not possess the requisite managerial, financial, technical or operational capabilities to meet the obligations of an RDOF recipient. To assist the KCC with its review of LTD's application, ERIC provides the below summary of filings on the

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<sup>1</sup> ERIC Informal Request for Commission Action, WC Docket No. 19-126, WC Docket No. 10-90, AU Docket No. 20-34 (February 25, 2021) and Letter from Caressa D. Bennet, Attorney for Ensuring RDOF Integrity Coalition, to Marlene H. Dortch, Secretary, FCC (March 11, 2021).

<sup>2</sup> Application of LTD Broadband LLC for Designation as an Eligible Telecommunications Carrier for the Purpose of Providing Services Supported by the FCC's Rural Digital Opportunity Fund, Docket No. 21-LTDT-430-ETC, Application of LTD Broadband LLC for Designation as an Eligible Telecommunications Carrier (filed May 19, 2021).

<sup>3</sup> ETC Application at 1,4, and 12.

FCC's RDOF dockets pertaining to LTD's long-form application, including various oppositions filed by various state communications associations.

- ERIC [Informal Request](#) for Commission Action urging the FCC to adopt a third party review process subject to a protective order mechanism (February 25, 2021). ERIC subsequently [narrowed the scope of its request](#) to limit third party review to RDOF winning bidders that won over \$200 million or 100,000 locations (March 10, 2021). Nationally, LTD won over \$1.3 billion to serve 528,088 locations. Within Kansas, LTD won over \$3.2 million to serve 2,122 locations.
- NRECA [Ex Parte Letter and Presentation](#) identifying LTD as a Gigabit Fixed Wireless RDOF winning bidder with “irresponsible design allowed to bid in any geography / to any scale without proper FCC due diligence” and as “[u]nder capitalized and inexperienced” company that had bid “far beyond [its] means” (March 9, 2021).<sup>4</sup>
- Minnesota Telecom Alliance (“MTA”) and the Iowa Communications Alliance (“ICA”) filed a [Petition to Deny](#) LTD's long-form application for locations in Minnesota and Iowa based on LTD's apparent lack of “technical, engineering, financial, operational, management, staff, or other resources to meet RDOF build-out and service obligations” (March 22, 2021).<sup>5</sup>
- Wisconsin State Telecommunications Association (“WSTA”) [Informal Request for Commission Action](#) asks the FCC to (1) adopt for third party review subject to protective order and (2) deny LTD's long-form application for locations in Wisconsin.
- LTD [Opposition](#) to the MTA/ICA Petition to Deny arguing MTA/ICA's request is procedurally defective and lacks evidence warranting application denial (April 1, 2021).
- LTD [Opposition](#) to the WSTA Informal Request for Commission Action arguing WSTA's request is procedurally defective and lacks evidence warranting application denial (April 6, 2021).
- MTA/ICA [Reply](#) to LTD Opposition arguing that rather LTD failed to respond to MTA/ICA's assertions and questions and instead deflects attention away from LTD's performance record and untested and speculative prospects for meeting its RDOF performance obligations (April 8, 2021).

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<sup>4</sup> NRECA Ex Parte and Presentation, WC Docket No. 19-126, WC Docket No. 10-90, AU Docket No. 20-34 (March 9, 2021).

<sup>5</sup> MTA/ICA Petition to Deny, WC Docket No. 19-126, WC Docket No. 10-90, AU Docket No. 20-34 (March 22, 2021).

- LTD [Ex Parte Letter](#) indicating that LTD “elected to bid in areas proximate to its existing... supported and non-supported areas of its network, and other rural areas where it had local knowledge of terrain, demographic and other features” and that “rural areas do not present the same challenges of deploying fiber” (April 26, 2021).<sup>6</sup>.
- WTA [Ex Parte Letter](#) arguing that LTD fails to demonstrate “how it will be able to construct and operate multiple new stand-alone Gigabit-speed fiber optic networks ‘serving’ over a half million locations with RDOF support that is only 20-to-30 percent of the reserve prices established by the Connect America Cost Model (“CACM”) developed by CostQuest Associates and the Commission.” (May 6, 2021).<sup>7</sup>

It is ERIC’s hope that this summary will aid KCC staff in its due diligence of LTD to determine whether LTD would satisfy its ETC obligations and public interest standards in Kansas and that the KCC will join ERIC in seeking access to LTD’s long-form application pursuant to a protective order from the FCC in order to conduct the proper public interest analysis to determine whether LTD should be granted ETC status in Kansas.

Respectfully submitted,

/s/ Caressa D. Bennet

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<sup>6</sup> Letter from Stephen E. Coran, Counsel to LTD, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-126, WC Docket No. 10-90, AU Docket No. 20-34 (April 26, 2021).

<sup>7</sup> Letter from Derrick B. Owens, SVP of Government Affairs, and Gerard J. Duffy, Regulatory Counsel, WTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-126, WC Docket No. 10-90, AU Docket No. 20-34 (May 6, 2021).