

Comments of The Institute for Local Self-Reliance (ILSR) Regarding the Matter of the Petition of LTD Broadband, LLC (LTD) to Expand its Designation as an Eligible Telecommunications Carrier

Minnesota PUC Docket Number(s): P-6995/M-21-133

May 27th, 2022

ILSR seeks to provide comment on a [petition put forth by Minnesota Telecom Alliance \(MTA\) and Minnesota Rural Electric Association \(MREA\)](#), which requests that the Minnesota Public Utilities Commission “initiate a proceeding to revoke the expanded eligible telecommunications carrier (“ETC”) designation of Internet Service Provider LTD Broadband LLC (“LTD”) and deny LTD’s funding certification for 2023.” Such an action would prevent LTD from receiving federal dollars to serve the households in areas covered by the expanded designation.

The Institute for Local Self-Reliance (ILSR) is a national research and advocacy nonprofit focused on fighting corporate control and building an American economy driven by local priorities. Local self-reliance means that people are able to exercise power over our lives: how we provide for our families, how resources are shared and allocated in our communities, and how decisions made by government, corporations and business affect all of us. We recognize the petition against LTD’s expansion in Minnesota as an opportunity to advocate for the public interest and ensure that valuable federal dollars are spent in a way that will bring quality, affordable connectivity to communities as soon as possible.

ILSR is joined in these comments by the League of Rural Voters. The League of Rural Voters uses grassroots organizing and communications tools to connect with rural voters in pivotal Midwestern states, focusing on issues like economic development, Social Security, immigration, trade and farm policy, health care and education. The League of Rural Voters works to make sure the voices of rural America continue to be heard.

ILSR is also joined in these comments by AARP-Minnesota. AARP is a nonprofit, non-partisan advocacy and social mission organization. AARP’s mission is to enhance the quality of life for all as we age. AARP champions positive social change and deliver value through advocacy, information, and service. With 630,000 statewide members, AARP strengthens communities and advocates for what matters most to the 50-plus population and families: health security, financial stability and personal fulfillment. As part of our advocacy agenda, AARP believes access to high-speed Internet for unserved and underserved consumers in both rural and urban communities should be a top priority for the State of Minnesota.

Background

At present, we are experiencing valuable and unprecedented federal funding opportunities for the expansion of broadband, and it is critical that this funding be spent in ways that will extend quality, affordable, reliably connectivity as soon as possible to those who need it. We do not believe that funding LTD's expansion meets this criteria, and argue that doing so would only delay quality connectivity for Minnesota's un- and under-served communities. We are particularly concerned that LTD is not prepared to offer the high level of service required to meet the bar for receiving Universal Service Funds.

The Minnesota Public Utilities Commission's mission is to create and maintain a regulatory environment that ensures safe, adequate and efficient utility services at fair, reasonable rates consistent with State telecommunications and energy policies. One of the key functions of the Commission in performing this mission is to balance the private and public interests affected in each docket, and to make decisions that appropriately balance these interests in a manner "consistent with the public interest."

Concurring With the Facts In the MTA/MREA Petition

In June of 2021, the Minnesota Public Utilities Commission issued an order which expanded LTD Broadband's eligible telecommunications carrier ("ETC") designation to include over 100,000 additional locations in Minnesota. This expansion allowed the provider to qualify for \$311 million in funding for 10 years under the [Rural Digital Opportunity Fund \(RDOF\)](#). LTD's total RDOF bid was for \$1.3 billion and included nearly 530,000 locations across 15 states.

The MTA/MREA petition argues that information learned since last June casts doubt on LTD's ability to deliver on its buildout commitments and asks the Minnesota PUC to reconsider its ETC designation and funding certification. MTA and MREA assert that the Minnesota Public Utilities Commission has the authority to "revoke the expanded designation based on facts that have emerged after the expansion order" and the responsibility to "determine whether there is an adequate basis to certify LTD for funding" in order to protect the public interest. The PUC has broad discretion to carry out its charge, especially in rural areas (where RDOF funds have been designated to go), and must be especially diligent in providing the regulatory and oversight roles that complement federal infrastructure subsidy programs according to its knowledge of the history and challenges of expanding quality connectivity in rural areas of the state.

Since the LTD Expansion Order in June of last year, LTD has failed to obtain ETC designations for RDOF funding in seven of the 15 states in which it sought these designations. The South Dakota Public Utility Commission [recently denied](#) LTD's request to expand its ETC designation because LTD "failed to demonstrate the technical, managerial, and financial capability to construct and operate the network it promised to." As the MTA/MREA petition points out, the area LTD has committed to cover in Minnesota is far greater than the area it had promised to cover in South Dakota, so the risk of allowing LTD to move forward in Minnesota affects many more people.

The MTA/MREA petition states that, because of the deadlines LTD has missed and the ETC designations it has been denied, “the FCC has, to date, already declared LTD in default on over 30 percent (161,343 of 528,088) of the RDOF locations included in LTD’s bid.”

The petition also alleges that LTD is too small of a provider to effectively deliver its promised coverage within the required time frame, and is likely to face financial barriers in attempting to follow through on its RDOF bid. Furthermore, the RDOF work nationally and in Minnesota is of a scope that even a larger, more well-prepared company would be hard-pressed to deliver on. And LTD, by all appearances, is not in a position to do so.

LTD’s Problematic History

As the MTA/MREA petition points out, LTD has failed to obtain ETC designations for RDOF funding in seven of the 15 states in which it sought these designations – most recently in South Dakota. After winning the RDOF auction, LTD was required to submit proof of its ETC status in the areas where it had committed to providing service by June 7, 2021. LTD petitioned the FCC to extend this deadline in eight states, but was [denied in California, Kansas, and Oklahoma](#). At that time, the FCC declared it would find “LTD in default on its bids” in these three states.

In Iowa, [LTD was also recently denied the ETC designation it was seeking](#) as a result of missed deadlines, procedural flaws, and obvious errors in filings, as well as LTD’s failure to evidence “the technical and financial capabilities required to carry out the public interest obligations of those entrusted with federal funds.”

Such administrative failures are indicative of limited resources and poor planning, which calls into question the company’s ability to deliver service on the scale it has committed to operating on.

LTD also failed to follow through on both its CAF II and Rural Broadband Experiment bids, inflicting additional administrative costs and delays on programs intended to bring quality connectivity to communities as soon as possible. Paul Bunyan writes that “LTD’s history with federal USF programs is one of defaults, missed deadlines, and compliance issues;” LTD received support for 108 Census Block Groups in Nebraska and Nevada under the Connect America Fund II (CAF II) auction, but in 2019 defaulted on \$71,254 in support in these states. LTD was consequently subject to penalty fees, and the “FCC found that LTD had ‘hindered the disbursement of funds that could have otherwise been productively used to increase broadband access to unserved or underserved areas.’” LTD’s original ETC designation in Minnesota was for CAF II, so an expanded designation would require the company to meet RDOF obligations while also maintaining those of CAF II.

Finally, LTD has experienced [prolonged network outages](#) that cause concern about its ability to provide the required level of quality for essential 911 service. The company has had [33 complaints on Downhunter](#) in the last 9 months, with commenters citing regular

outages, long customer service wait times to manage these outages, and slower-than-advertised speeds when service is working. LTD's track record should be taken into consideration before it receives such substantial federal support for expansion, especially because frequent outages run the risk of preventing people from reaching emergency services when they are needed.

LTD is Unlikely to Deliver in Minnesota

LTD was the only [RDOF recipient selected to deploy](#) fiber-to-the-home (FTTH) infrastructure in parts of Minnesota. LTD currently provides nearly all-wireless service in 5 states, but has committed to deploying fiber across 15 states in nearly 530,000 locations via RDOF within six years. And yet, as one FTTH provider with a deep history of operating in northern Minnesota points out, LTD's experience deploying fiber is minimal. Furthermore, LTD will be required to provide significantly higher speeds than what it currently offers in those 5 states in order to meet the standards associated with the RDOF funding. The highest residential speed [currently listed on the company's site](#) is 35/7 Mbps, which is advertised as the 'Home Office' tier. Paul Bunyan Rural Telephone Cooperative, an experienced fiber builder that has operated in some of the most challenging parts of northern Minnesota over the last ten years, wrote in its own comment that "LTD faces a herculean task of deploying fiber to 528,088 locations in 92,092 eligible census blocks in the fifteen (15) states in a compressed time period in order to satisfy its RDOF performance requirements."

LTD's ability to satisfy consumer protections is also questionable. Both Paul Bunyan Telephone Cooperative (PBRTC) and the Minnesota Telecom Alliance (MTA) argue in their own comments that LTD fails to demonstrate that it will comply with applicable consumer protections in the bid areas – a requirement for all ETC applicants. The comments point out that "The Better Business Bureau ("BBB") gives LTD's Minnesota operations a failing "F" rating, and indicates that LTD is "not BBB accredited." The company also failed to outline any specific consumer protection measures in the works for its expansion, stating only that it plans to comply with requirements. Specifically because of LTD's history of poor customer service, these vague commitments should not be considered sufficient basis for expanding LTD's ETC designation.

LTD has taken a similarly vague approach to affordable connectivity requirements. The PBRTC and MTA comments outline the fact that LTD has verbally agreed to fulfill its income-qualified requirements, but has failed to demonstrate that it will comply with them. The comments also question the company's financial ability to provide and sustain such offerings. The Minnesota Department of Commerce released a notice "urging the PUC to take note of the large number of customers that will be in LTD Broadband's service area and require that LTD Broadband ensure that low-income residents are aware of the opportunity to receive a discount on their service," to which LTD did not respond. Expanding LTD's ETC designation has the potential to harm all customers in its bid areas, but poses a particular risk for low-income customers.

Furthermore, LTD has failed to respond to the Department’s requests for information regarding Tribal lands falling within its expanded service areas. PBRTC’s comments read: “For the RDOF winning bidders, the Department sent an email asking the companies to list the census blocks that serve Tribal areas, to encourage companies to start engaging with the Tribal governments in their area . . . LTD Broadband did not respond. LTD Broadband was the winning bidder in 18,110 census blocks in Minnesota, making it likely that some of the Census Blocks encompass Tribal lands.”

Perhaps most telling is LTD’s failure to engage with or conduct planning within the Minnesota communities which contain census tracts the company has been awarded. LTD is poised to build out FTTH infrastructure in 415 census tracts in Le Sueur County, but the county has not been able to secure a meeting with LTD to discuss plans. This raises concern given LTD’s track record, but also the fact that the amount of money the company has received to provide FTTH in Le Sueur is a small fraction of what the county itself has estimated a proper FTTH buildout would cost. Le Sueur has been working with other providers to expand connectivity across the county, but plans have stalled as matters with LTD make it more difficult for these providers to receive federal funding.

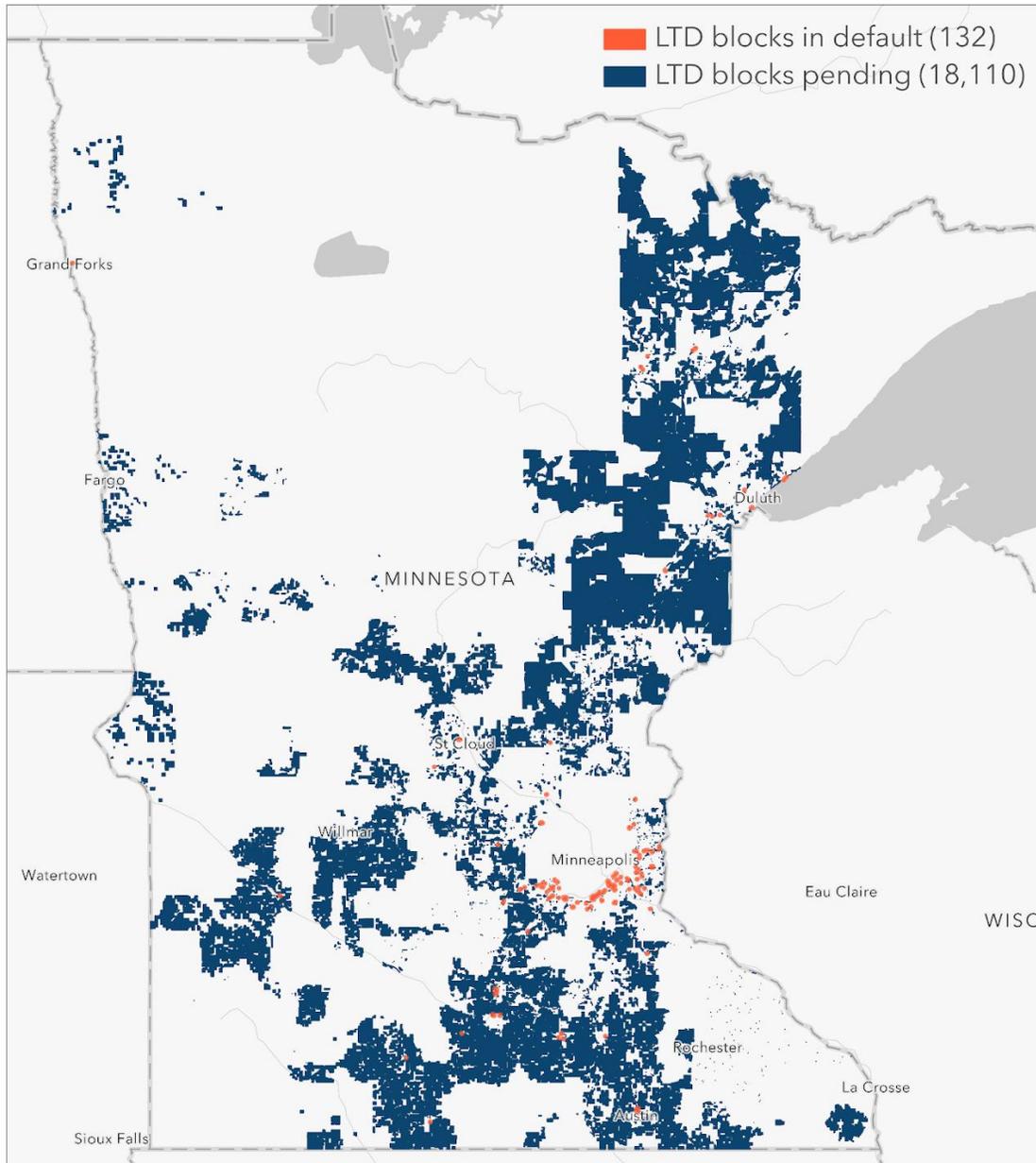
Pine County, which has itself been actively seeking out and obtaining funding for expanded connectivity in the area, has expressed concern over LTD’s plan to “provide wireline connections throughout Pine County without first understanding the topography, the current infrastructure, or demographics.” LTD’s questionable commitments could prevent the county from getting to work in many of its communities for years to come.

Balkan Township filed its own comments echoing the sentiments expressed by Le Sueur and Pine Counties. The comments read: “The longer this process takes, the more Balkan Township will experience delays and cost increases to provide fiber to our constituents’ homes. If LTD had not been awarded RDOF funds for broadband deployment in Balkan Township we believe we would already have a viable fiber network installed by a reliable, reputable service provider.”

Consequences of LTD’s Expansion

While the FCC certification process has resulted in the decision to place LTD in default in 132 of the census blocks it won a bid for, more than 18,000 census blocks across the state of Minnesota remain pending (see map below). We expect the full FCC certification process, however, to be slow. This means that even if LTD is ultimately placed in default across all of its census blocks across the state, there will be significant delay for tens of thousands of residents in getting future-proof broadband service with help from other, faster-moving state and federal infrastructure programs. If LTD ends up being awarded its RDOF funds, the program does not even require LTD to begin building in these areas for several years. In the meantime, those localities will be forced to continue to wait. Le Sueur County wrote in its comments: “The longer this issue remains unresolved, the less funds will likely be available for our local internet service providers to access and our citizens go

without improved internet access which they all deserve.” [LTD is poised to receive the \\$311 million in Minnesota over years, and has 6 years to build.](#)



Data: Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS,
Census Blocks Covered by FCC Auction 904 Defaults (10 May 2022),
Census Blocks Covered by FCC Auction 904 Long-Form Applicants (2 Feb 2022),
Author: Christine Parker | Institute for Local Self Reliance

Finally, if LTD receives its funding, it will be harder for other providers to receive support under programs like the Broadband Equity, Access, and Deployment Program (BEAD). BEAD, which is distributed by the National Telecommunications and Information Administration, provides grants of at least \$100 million to states to support broadband

deployment projects in underserved areas. Early indications suggest, however, that NTIA will defer to the FCC on areas already served by RDOF, making states loathe to support a different, even if superior, provider when LTD is already receiving federal funds to serve that area.

Conclusion

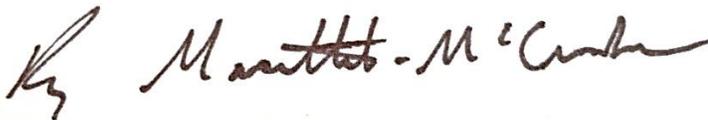
This massive federal investment in broadband is a once-in-a-generation opportunity, and it is critical that the money be spent wisely. The need for quality connectivity in Minnesota is substantial; about [a quarter of rural households in the state do not have access to the Internet](#). LTD is unlikely to bring un- and under-served communities the connectivity they need. We support the MTA/MREA petition and efforts to revoke LTD's expanded ETC designation and bar it from receiving federal funding. Thank you for your consideration and the opportunity to comment on this issue.

Sincerely,



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