

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of LTD
Broadband LLC to Expand Its Designation as
an Eligible Telecommunications Carrier

SECOND PREHEARING ORDER

In the Matter of a Petition to Initiate a
Proceeding to Revoke the Expanded Eligible
Telecommunications Carrier Designation of
LTD Broadband LLC and Deny LTD's
Funding Certification for 2023

This matter came before Administrative Law Judge James E. LaFave for a prehearing conference on August 24, 2022.

Andrew M. Carlson and Peter E. Madsen, Taft Stettinius & Hollister LLP, and Stephen E. Coran, Lerman Senter, PLLC, appeared on behalf of LTD Broadband LLC (LTD).

Richard J. Johnson, Dan Lipschultz (of counsel), and Katherine J. Marshall, Moss & Barnett, A Professional Association, appeared on behalf of the Petitioners, Minnesota Telecom Alliance (MTA) and Minnesota Rural Electric Association (MREA).

Richard E.B. Dornfeld and Katherine M. Hinderlie, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce.

Kristin Berkland and Joseph Meyer, Assistant Attorneys General, appeared on behalf of the Office of the Attorney General—Residential Utilities Division.

Marc Fournier and Sally Anne McShane appeared on behalf of the staff of the Minnesota Public Utilities Commission.

Based upon the submissions of counsel and the hearing record,

IT IS HEREBY ORDERED THAT:

1. LTD shall serve and file the long-form application, related correspondence, and attachments by August 26, 2022.

2. Parties wishing to intervene in this proceeding must file their requests by **4:30 p.m. on September 16, 2022.**

3. A prehearing conference will be held by telephone on **September 20, 2022, at 2:30 p.m.** to review the status of the case, define the issues and set the dates for hearing. At that time, please call **1-866-705-2554** and when prompted enter passcode **406954.**

Dated: September 1, 2022


JAMES E. LAFAVE
Administrative Law Judge

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of LTD Broadband
LLC to Expand Its Designation as an Eligible
Telecommunications Carrier

PROTECTIVE ORDER

In the Matter of a Petition to Initiate a
Proceeding to Revoke the Expanded Eligible
Telecommunications Carrier Designation of
LTD Broadband LLC and Deny LTD's Funding
Certification for 2023

This matter came before Administrative Law Judge James LaFave for a prehearing conference on August 24, 2022.

Andrew M. Carlson and Peter E. Madsen, Taft Stettinius & Hollister LLP, and Stephen E. Coran, Lerman Senter, PLLC, appeared on behalf of LTD Broadband LLC.

Richard J. Johnson, Dan Lipschultz (of counsel), and Katherine J. Marshall, Moss & Barnett, A Professional Association, appeared on behalf of the Petitioners, Minnesota Telecom Alliance (MTA) and Minnesota Rural Electric Association (MREA) (collectively Petitioners).

Richard E.B. Dornfeld and Katherine M. Hinderlie, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce.

Kristin Berkland and Joseph Meyer, Assistant Attorney General, appeared on behalf of the Office of the Attorney General—Residential Utilities Division.

Marc Fournier and Sally Anne McShane appeared on behalf of the staff of the Minnesota Public Utilities Commission.

Background

1. The purpose of this Order is to facilitate the disclosure of documents and information during the course of this proceeding and to protect against the unauthorized disclosure of “not public” data pursuant to Minn. Stat. §§ 13.02, subd. 8a, 13.37, subds. 1-2 (2022), Minn. R. 1400.6700, subp. 4 (2021).

2. For purposes of this Order, “government agency” or “government agencies” has the same meaning as “state agency” under Minn. Stat. § 13.02, subd. 17 (2022), as well as any employee of a state agency acting within the scope of his or her job duties. Access to and use of not public data in this proceeding by parties other than government agencies shall be strictly controlled by the terms of this Order. The parties other than governmental agencies are hereafter referred to in this Order as parties or persons.

3. The government agencies with access to not public data include the Minnesota Public Utilities Commission (Commission), the Office of Administrative Hearings (OAH), the Office of the Attorney General (OAG), the Minnesota Department of Commerce (Department), the Minnesota Department of Administration, and Minnesota IT Services (MNIT). Government agencies are subject to various laws and rules regulating access to and retention of data, including the Minnesota Government Data Practices Act (MGDPA), Minn. Stat. §§ 13.01-.90 (2022), the records retention requirements of Minn. Stat. §§ 138.163-.226 (2022), as well as agency-specific rules and procedures, including the Commission’s September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data (Commission Procedures).

4. Pursuant to Minn. Stat. § 13.03, subd. 6, and the files and proceedings herein, the Administrative Law Judge finds that data that is classified as Not Public may be discoverable in this regulatory action and that the benefit to the parties generally outweighs any harm to the confidentiality interests of the government agencies in maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data.

5. This matter was referred to the OAH by the Commission for a contested case hearing in its Notice of and Order for Hearing of August 16, 2022. The Order was issued in MPUC Docket Nos. P-6995/M-21-133, P-558, P-6995/M-22-221.

6. Minn. Stat. § 14.60, subd. 2 (2022) authorizes the Administrative Law Judge to conduct a closed hearing to discuss not public data, issue necessary protective orders, and seal all or part of the hearing record.

Based upon the submissions of the parties, and upon the hearing record,

IT IS HEREBY ORDERED THAT:

A. Not Public Data

1. Pursuant to Minn. Stat § 13.02, subd. 8a, not public data includes “security information” and “trade secret information” within the meaning of Minn. Stat. § 13.37, subd. 1(a), (b), and information made not public by federal law applicable to the data pursuant Minn. Stat. § 13.02, subd. 8a. All not public data furnished by a disclosing party in this proceeding shall be:

a. Deemed furnished pursuant to all terms of this Order;

b. In accordance with the Commission’s Procedures and Minn. R. 7829.0500, subp. 5 (2021), all documentary material claimed to be Not Public shall be marked substantially as follows by stamping each individual page with the designation “**NOT PUBLIC DOCUMENT – NOT FOR PUBLIC DISCLOSURE**” or words of similar import;

c. Used solely in accordance with this Order;

d. Used solely for the purposes of this proceeding, and not used or disclosed for any other purpose or in any other manner; and

e. Be accompanied by one copy of the document with the not public data redacted, with the first page or cover page of the document from which the data has been excised clearly captioned in bold print “**PUBLIC DOCUMENT – NOT PUBLIC DATA HAS BEEN EXCISED.**”

2. For purposes of this proceeding, notes made pertaining to, or prepared as the result of, a review of not public data shall be subject to the terms of this Order. Any not public data received in photographic, digital, or electronic formats shall be identified as protected by the producing party by means appropriate to the medium and shall be handled by the recipient in a manner suitable to protect its confidentiality.

B. Use of Not Public Data and Persons Entitled to Review

3. All not public data made available pursuant to this Order shall be given solely to (a) counsel for the requesting party or (b) other authorized persons who (i) are designated by counsel as being the party’s experts or witnesses in this proceeding; and (ii) execute Exhibit A in a timely manner prior to their receipt of the not public data.

4. Not public data shall not be used or disclosed except for purposes of this proceeding and as needed for all subsequent appeals of the final order in this proceeding. The not public data may not be used or referenced in other proceedings in Minnesota or in other jurisdictions.

5. Unless otherwise provided in this Order, all not public data will be safeguarded and handled in accordance with the Commission's Procedures.

6. Any party may request amendment of the procedures for handling data that are set forth in this Order by making a motion to the Administrative Law Judge.

C. Nondisclosure Agreement and the 48-Hour Review Period

7. Prior to giving access to not public data to any expert or witness, whether or not such expert or witness is a person designated to testify in any such proceeding, counsel for the party seeking review of the not public data shall deliver a copy of this Order to such person; and prior to disclosure such Person shall agree in writing, by executing the Nondisclosure Agreement attached hereto as Exhibit A, to comply with and be bound by this Order.

8. Not public data shall not be disclosed to any person who has not signed the Nondisclosure Agreement in the form which is attached hereto and incorporated herein as Exhibit A and until the 48-hour notice required by this paragraph has been given. The Exhibit A Nondisclosure Agreement shall require the person to whom disclosure is to be made to read a copy of this Order and to certify in writing that he or she has reviewed the same and has consented to be bound by its terms. The Nondisclosure Agreement shall contain the signatory's full name, permanent address and employer, and the name of the party with whom the signatory is associated. Such Nondisclosure Agreement shall be delivered to counsel for the disclosing party at least 48 hours prior to the expert or witness gaining access to the not public data, excluding weekends and holidays.

9. If counsel for the disclosing party notifies the requesting party and the Administrative Law Judge of an objection within the 48 hours, no not public data shall be provided to the expert or witness until so ordered by the Administrative Law Judge.

D. Government Agencies

10. Government agencies are not subject to the terms of this Order; provided, however, that while this matter is pending before the OAH and as to matters within the jurisdiction of the OAH, government agencies are subject to the terms of this Paragraph.

a. *Conflicts.* To the extent this Order conflicts with or omits a matter otherwise required by either the MGDPA or Commission Procedures, the requirements of the MGDPA or Commission Procedures shall control. Any provision of this Order not consistent with this paragraph shall be of no effect with respect to the government agencies.

b. *Disclosure.* A government agency may not provide not public data to an outside expert (an individual not employed by said agency) or another person (a representative for another party) until the outside expert or person has signed

an Exhibit A Non-Disclosure Agreement. Such an expert or person shall comply with the terms of the Protective Order.

c. *Verbal Disclosure.* Not public data may be verbally disclosed by government agencies during depositions or hearings in this matter only upon prior notice to and agreement of the disclosing party, or authorization by the Administrative Law Judge.

E. Challenges to Not Public Designation or Other Special Requests

11. This Protective Order shall not be construed as a ruling on the discoverability, confidentiality, or validity of a designation as not public data of any information or document. During the contested case proceedings before the OAH, any party may request a disclosing party to meet and confer concerning the redesignation of any materials designated as not public data. If the parties do not resolve the issue in five (5) business days of the request to meet and confer, the party seeking redesignation may request *in camera* review by the Administrative Law Judge, in the manner described below.

12. A party seeking redesignation of information designated as not public may seek *in camera* review for purposes of challenging the designation by submitting the data for which redesignation is sought, along with a brief letter explaining the party's position. The party opposing redesignation may, within three (3) business days of the request for *in camera* review, submit a brief letter to the Administrative Law Judge explaining that party's position and, thereafter, the Administrative Law Judge will rule. In a proceeding challenging the designation of information as not public, the burden shall be on the party asserting the designation to show that the information meets the definition of not public data. If the not public nature of any information is challenged, resolution of the issue shall be made by the Administrative Law Judge after proceedings *in camera* which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such trade secret or not public matter shall be present. The record of such *in camera* hearings shall be marked "**NOT PUBLIC DOCUMENT — NOT FOR PUBLIC DISCLOSURE,**" or words of similar import, consistent with the Commission's Procedures and Minn. R. 7829.0500 unless the Administrative Law Judge determines that the proceeding should not be classified as involving not public data.

F. Use of Not Public Data in Comments or Pleadings

13. Where reference to not public data is required in pleadings, cross-examinations, briefs, argument, or motions, it shall be by citation of title or exhibit number or by some other non-confidential description.

14. Any further use of or substantive references to not public data shall be placed in a separate "not public" copy that is filed and marked in a manner consistent with Minn. R. 7829.0500 and the Commission's Procedures. This "not public" copy shall be served only on counsel of record (one copy each) who have signed a Nondisclosure

Agreement. All the protections afforded in this Order apply to materials prepared and distributed under this paragraph.

G. Use of Not Public Data in Depositions

15. If, in the course of depositions, counsel for any party concludes that testimony or exhibits will involve not public data, counsel shall request that the court reporter record such testimony in a confidential transcript. All Exhibits that have been marked as involving not public data shall be attached to the confidential transcript and marked consistent with Minn. R. 7829.0500 and the Commission's Procedures. Each party has the right to identify a transcript or exhibits as including not public data pursuant to this paragraph for up to three business days after the deposition transcript is made available to them.

H. Use of Not Public Data in Hearings or Commission Meetings

16. The receiving party shall not use not public data in a hearing without first: (a) making reasonable efforts to provide at least three days' prior notice to the disclosing party regarding the information to be used; and (b) conferring with the disclosing party regarding limitations or procedures that can be used to avoid disclosing the confidential aspects of the information at issue to persons not otherwise entitled to receive such information. If the parties cannot reach agreement regarding the use of such information, then the dispute shall be submitted to the Administrative Law Judge before the information is used or publicly disclosed. Without limiting the foregoing, no party shall use not public data in oral testimony, cross-examination or argument except in accordance with this paragraph.

I. Not Public Data Contained in Transcripts

17. Each disclosing party or government agency may identify portions of depositions or hearing transcripts that disclose not public data for up to three business days after the transcript is made available to them, and the court reporter shall mark those portions of the transcript "**NOT PUBLIC DOCUMENT — NOT FOR PUBLIC DISCLOSURE,**" or words of similar import, consistent with the Commission's Procedures and Minn. R. 7829.0500.

J. Public Summaries

18. To the extent required by the Commission's Procedures or Minn. R. 7829.0500, the providing party shall prepare a written summary of the not public data referred to in this Order to be placed on the public record.

K. Return of Materials

25. Unless otherwise ordered, all not public data: (a) shall remain under seal and shall continue to be subject to the protective requirements of this Order; and (b) shall be destroyed or returned to counsel for the disclosing party within 30 days after final

settlement or conclusion of the applicable matter including administrative or judicial review thereof, unless otherwise agreed by the disclosing party. If the not public data is destroyed, the receiving party shall send a written communication to the disclosing party verifying destruction of the not public data.

L. Preservation of Confidentiality

26. No person who receives, or is afforded access to, any not public data by reason of this Order shall use or disclose the not public data for purposes of business or competition, or any other purpose other than preparing for, or conducting, these proceedings. Each person with access to such data shall take reasonable precautions to keep the not public data secure from unauthorized disclosure.

M. Reservation of Rights

27. The parties to this proceeding retain the right to object to the admissibility into the hearing record of any item furnished under the terms of this Order, on the grounds that the item is not relevant or material to the proceeding.

N. Inadvertent Disclosure

28. No party waives its right to designate any documents, data, information, studies, or other materials as not public data by inadvertent disclosure, provided that the disclosing party thereafter gives written notice to the recipient(s) of such information and that it should have been designated as not public data. From and after receipt of such notice, the previously disclosed information subsequently identified as not public data shall be treated as such for purposes of this Order.

O. Disclosure of Not Public Data to Unauthorized Person

29. If material designated as not public data is disclosed by a party to any person other than those entitled to disclosure in the manner authorized by this Order, the party responsible for the disclosure shall:

- a. immediately upon learning of such disclosure, inform the designating party in writing and by telephone call of all pertinent facts relating to such disclosure; and
- b. shall make every effort to prevent further disclosure by or to any unauthorized Person(s).

If requested by the designating party, the disclosing party shall use its best efforts to retrieve the documents or tangible things from the unauthorized recipients. The parties thereafter shall attempt to resolve the matter promptly. If the parties are unable to resolve the issue, a party may file a motion with the Administrative Law Judge for relief with notice to the parties of record.

30. This Order shall not abrogate or diminish any contractual, statutory, or other legal obligation or right of any party with respect to the improper release of not public data.

Dated: September 1, 2022



JAMES E. LAFAVE
Administrative Law Judge

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of LTD Broadband
LLC to Expand Its Designation as an Eligible
Telecommunications Carrier

In the Matter of a Petition to Initiate a
Proceeding to Revoke the Expanded Eligible
Telecommunications Carrier Designation of
LTD Broadband LLC and Deny LTD's Funding
Certification for 2023

EXHIBIT A
NONDISCLOSURE AGREEMENT

I, the undersigned, acknowledge that I have read the attached Order dated September 1, 2022, in Minnesota Public Utilities Commission Docket Nos. E P-6995/M-21-133 and P-558, P-6995/M-22-221, OAH Docket No. 60-2500-38516, and understand and agree to be bound by all of its terms.

I agree not to disclose to any unauthorized person or entity materials designated "**NOT PUBLIC DATA**" under the terms of the Order, or any copies or extracts of information derived from those items, which have been disclosed to me. I further agree to use any materials disclosed to me solely for the purpose of this proceeding and for no other purpose and in no other jurisdiction.

I submit myself to the jurisdiction of the Office of Administrative Hearings in Minnesota and the Minnesota Public Utilities Commission for the purpose of enforcing the Order.

Date: _____

Signature

Type or Print Name

Address

Name of Employer

Name of Party

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of LTD Broadband
LLC to Expand Its Designation as an Eligible
Telecommunications Carrier

In the Matter of a Petition to Initiate a
Proceeding to Revoke the Expanded Eligible
Telecommunications Carrier Designation of
LTD Broadband LLC and Deny LTD's Funding
Certification for 2023

**PROTECTIVE ORDER FOR HIGHLY
CONFIDENTIAL TRADE SECRET
DATA**

This matter came before Administrative Law Judge James LaFave for a prehearing conference on August 24, 2022.

Andrew M. Carlson and Peter E. Madsen, Taft Stettinius & Hollister LLP, and Stephen E. Coran, Lerman Senter, PLLC, appeared on behalf of LTD Broadband LLC.

Richard J. Johnson, Dan Lipschultz (of counsel), and Katherine J. Marshall, Moss & Barnett, A Professional Association, appeared on behalf of the Petitioners, Minnesota Telecom Alliance (MTA) and Minnesota Rural Electric Association (MREA).

Richard E.B. Dornfeld and Katherine M. Hinderlie, Assistant Attorneys General, appeared on behalf of the Minnesota Department of Commerce.

Kristin Berkland and Joseph Meyer, Assistant Attorneys General, appeared on behalf of the Office of the Attorney General—Residential Utilities Division.

Marc Fournier and Sally Anne McShane appeared on behalf of the staff of the Minnesota Public Utilities Commission.

Therefore, in order to address the Parties' need to exchange highly confidential information in this matter, pursuant to the agreement of the parties, and based upon the files and record in this matter,

IT IS HEREBY ORDERED:

1. *Purpose.* The purpose of this Highly Confidential Trade Secret Protective Order (HCTS Order) is to facilitate the disclosure of Highly Confidential information. Access to and review of Highly Confidential Trade Secret (HCTS) information shall be controlled by the terms of this HCTS Order. This HCTS Order supplements, and is intended to be read in conjunction with, the Protective Order issued in this proceeding.

2. *Government Agencies.* The government agencies with access to Highly Confidential Trade Secret Information (HCTS Information), which include the Minnesota Public Utilities Commission, the Office of Administrative Hearings, the Office of the Attorney General, the Minnesota Department of Commerce, the Minnesota Department of Administration, and Minnesota IT Services (Government Agencies), are subject to various laws and rules, including the Minnesota Government Data Practices Act, the records retention requirements of Minn. Stat. §§ 138.163-.226 (2022), as well as agency specific rules and procedures, including the Commission's September 1, 1999, Revised Procedure for Handling Trade Secret and Privileged Data. In the event of any conflict with a statute, rule, or the Commission's procedures with the terms of the order, the statute, rule, or procedure will govern as to the Government Agencies. Due to the potential for conflict with these laws and rules, the government agencies identified above are specifically not subject to paragraphs 8 and 15 of this HCTS Order.

3. *Definition of Highly Confidential Trade Secret Information.* The term "Highly Confidential Trade Secret" or "HCTS" Information shall mean all documents, testimony, transcripts, pleadings, briefs, data, studies, and other materials furnished pursuant to any requests for information, subpoenas, or other modes of discovery (formal or informal), and other requests for information that are particularly competitively sensitive. This includes contractual information and information that is confidential or proprietary to the parties or their contract counter-parties. Provided it is designated in accordance with Paragraph 5, the Parties agree not challenge the designation of the following information as HCTS Information: (a) LTD's financial business data, analysis, plans, or proposals; (b) LTD's operational trade secrets or proprietary information relating to LTD's network, including future expansions to its network; (c) LTD's plans for building out its network upon authorization for Rural Digital Opportunity Fund (RDOF) support; (d) LTD's technical or engineering plans for its broadband network; (e) LTD's cost estimates or analyses relating to buildout of its broadband network; and (f) LTD's RDOF long-form application filed with the Federal Communications Commission (FCC) and any drafts, supplements, supporting analyses, correspondence, or other information relating thereto.

4. *Parties.* Parties shall include Minnesota Telecom Alliance and Minnesota Rural Electric Association (collectively, Petitioners); LTD Broadband, LLC (LTD); the Minnesota Department of Commerce (Department); and the Office of the Attorney General—Residential Utilities Division (OAG-RUD), and any party granted intervention in this proceeding.

5. *Designation of HCTS Information.* Any Party may designate certain competitively sensitive information as HCTS Information if that Party determines in good faith that the information falls within the above definition of HCTS Information. Parties must scrutinize carefully responsive documents and information and limit their designations as HCTS Information to information that truly may impose a serious business risk if disseminated without the heightened protections provided in this section.

6. *Marking HCTS Information.* The first page and individual pages of a document determined in good faith to include HCTS Information must be marked to read: "**NOT PUBLIC DOCUMENT – CONTAINS HIGHLY CONFIDENTIAL TRADE SECRET INFORMATION**". Each page that contains HCTS Information must be marked separately

to indicate HCTS Information, even where that information has been redacted.

7. *Access to HCTS Information.* The HCTS Information can be shared with the Government Agencies, subject to the terms of this HCTS Order and the Parties' separate Protective Order. In addition, after signing Exhibit A to this HCTS Order and with 48 hours' advance notice, as set forth in the Parties' separate Protective Order, the HCTS Information can be shared with outside counsel and retained consultants of the Parties and Government Agencies (collectively, Party Representatives) and court reporters, but cannot be shared with the other employees or representatives of the receiving Parties. Except by the Department and OAG-RUD, HCTS Information cannot be used or disclosed except for purposes of this proceeding, as needed for subsequent appeals of this proceeding, or in related Commission proceedings, and HCTS Information cannot be used or referenced in other proceedings in Minnesota or in other jurisdictions. All protections provided for Not Public Information in the Parties' separate Protective Order extend to HCTS Information produced pursuant to this HCTS Order.

8. *Custody.* Party Representatives will maintain the documents and any notes reflecting their contents in a secure location to which only Party Representatives have access. No additional copies will be made by Party Representatives, except for use during hearings and then such disclosure and copies shall be subject to the provisions of this HCTS Order and the Parties' separate Protective Order. Any testimony or exhibits prepared by Party Representatives that reflect HCTS Information must be maintained in the secure location until removed to the hearing room or production under seal. Unless specifically addressed herein, all terms of the Protective Order applicable to Not Public Information also apply to HCTS Information.

9. *Objection to Admissibility.* The furnishing of any document, data, study, or other materials pursuant to this HCTS Order shall in no way limit the right of a party to object to its relevance or admissibility in proceedings before the Commission or the Administrative Law Judge.

10. *Challenge to HCTS Status.* This HCTS Order establishes a procedure for the expeditious handling of information that Parties claim is HCTS Information. It shall not be construed as an agreement or ruling on the confidentiality of any document. Any party may challenge the characterization of any information, document, data, or study claimed to be HCTS Information in the following manner

a. A Party seeking to challenge the HCTS status of any materials pursuant to this HCTS Order shall first contact counsel for the Party claiming HCTS and attempt to resolve any differences by stipulation.

b. If the Parties cannot agree as to the character of the information challenged, any party challenging the HCTS status shall do so by appropriate pleading. This pleading shall: (1) Designate the document, transcript, or other material challenged in a manner that will specifically isolate the challenged material from other material claimed as confidential; and (2) State with specificity the grounds upon which the documents, transcript, or other material are deemed to be not HCTS by the challenging Party.

c. A ruling on the HCTS status of the challenged information, document, data, or study shall be made by the Administrative Law Judge after proceedings *in camera*, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such confidential materials shall be present.

d. The HCTS portions of the transcript of said *in camera* hearing shall be marked by the court reporter as **“NOT PUBLIC DOCUMENT – CONTAINS HIGHLY CONFIDENTIAL TRADE SECRET INFORMATION”**.

e. If the Administrative Law Judge should rule that any information, document, data, or study should be removed from the restrictions imposed by this HCTS Order, no party shall disclose such information, document, data, or study or use it in the public record for five (5) business days unless authorized by the party claiming HCTS to do so. The provisions of this subsection are intended to enable the party claiming HCTS Information to seek a stay or other relief from an order removing the restriction of this HCTS Order from materials claimed to be confidential.

11. *Receipt into Evidence at Hearings.* Provision is hereby made for receipt into evidence at the evidentiary hearing in this proceeding materials claimed to be HCTS Information in the following manner:

a. Prior to the use of or substantive reference to any HCTS Information in argument or live witness questioning at the evidentiary hearing, the Parties intending to use such information shall make that intention known to the other Parties.

b. The Parties shall make a good-faith effort to reach an agreement so the argument or live witness questioning of HCTS Information at the evidentiary hearing can be used in a manner which will not reveal its confidential or proprietary nature.

c. If such efforts fail, the Parties shall separately identify which portions, if any, of the documents to be referenced that are not already pre-filed, shall be placed in a sealed record, and shall notify the Administrative Law Judge of the HCTS Information.

12. *In Camera Hearing.* Any HCTS Information that must be orally discussed to be placed in the sealed record in the Proceedings shall be offered in an *in camera* hearing, attended only by persons authorized to have access to the information. Similarly, any cross-examination on or substantive reference to HCTS Information (or that portion of the record containing HCTS Information or references thereto) shall be received in an *in camera* hearing, and shall be marked and treated as provided herein.

13. *Pleadings.* Where reference to HCTS Information is required in the pleadings, briefs, arguments, or motions, it shall be by citation of title or exhibit number or some other description that will not disclose the substantive HCTS Information contained therein. Any further use of or substantive references to HCTS Information shall

be placed in a separate “not public” copy that is filed and marked in a manner consistent with Minn. R. 7829.0500 (2021) and the Commission’s Procedures. This “not public” copy shall be served only on counsel of record.

14. *Depositions and Transcripts.* The use of or reference to HCTS Information in depositions or hearing transcripts shall be governed by paragraphs 21 and 23 of the Parties’ Protective Order.

15. *Return.* The return of HCTS Information shall be governed by paragraph 25 of the Parties’ Protective Order.

16. *Inadvertent Disclosure.* No party shall have waived its right to designate any documents, testimony, transcripts, pleadings, briefs, data, information, studies, or other materials as HCTS Information by inadvertent disclosure, provided the disclosing party thereafter gives written notice to the recipient(s) of such information that it should have been designated as HCTS Information. From and after receipt of such notice, the previously disclosed information subsequently identified as HCTS Information shall be treated as HCTS Information, as applicable, for purposes of this HCTS Order.

17. *Inadvertent Disclosure Procedures.* If material designated as HCTS is disclosed by a Party to any person other than those entitled to disclosure in the manner authorized by this Order, the Party responsible for the disclosure shall:

- a. immediately upon learning of such disclosure, inform the designating Party in writing and by telephone call of all pertinent facts relating to such disclosure; and
- b. shall make every effort to prevent further disclosure by or to any unauthorized Person(s).

If requested by the designating Party, the disclosing Party shall use its best efforts to retrieve the documents or tangible things from the unauthorized recipients. The Parties thereafter shall attempt to resolve the matter promptly. If the Parties are unable to resolve the issue, a Party may file a motion with the Administrative Law Judge for relief with notice to the parties of record.

18. This Order shall not abrogate or diminish any contractual, statutory, or other legal obligation or right of any Party with respect to the improper release of not public data.

Dated: September 1, 2022



JAMES E. LAFAVE
Administrative Law Judge

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of LTD Broadband
LLC to Expand Its Designation as an Eligible
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In the Matter of a Petition to Initiate a
Proceeding to Revoke the Expanded Eligible
Telecommunications Carrier Designation of
LTD Broadband LLC and Deny LTD's Funding
Certification for 2023

**EXHIBIT A
TO HCTS PROTECTIVE
AGREEMENT**

I, the undersigned, acknowledge that I have read the attached PROTECTIVE ORDER FOR HIGHLY CONFIDENTIAL TRADE SECRET DATA, dated September 1, 2022, in Minnesota Public Utilities Commission Docket Nos. E P-6995/M-21-133 and P-558, P-6995/M-22-221, OAH Docket No. 60-2500-38516, and understand and agree to be bound by all of its terms.

Without limiting the generality of the foregoing, I agree not to disclose to any unauthorized person or entity materials designated "**HIGHLY CONFIDENTIAL TRADE SECRET INFORMATION**" under the terms of the PROTECTIVE ORDER FOR HIGHLY CONFIDENTIAL TRADE SECRET DATA, or any copies or extracts of information derived therefrom, which have been disclosed to me. I further agree to use any materials disclosed to me solely for the purpose of this proceeding and for no other purpose and in no other jurisdiction.

I submit myself to the jurisdiction of the Minnesota Office of Administrative Hearings and the Minnesota Public Utilities Commission for the purpose of enforcing the Protective Order.

Date: _____

Signature

Type or Print Name

Address

Name of Employer

Name of Party

September 1, 2022

See Attached Service List

Re: *In the Matter of the Petition of LTD Broadband LLC to Expand Its Designation as an Eligible Telecommunications Carrier*

In the Matter of a Petition to Initiate a Proceeding to Revoke the Expanded Eligible Telecommunications Carrier Designation of LTD Broadband LLC and Deny LTD's Funding Certification for 2023

**OAH 60-2500-38516
MPUC P-6995/M-21-133
MPUC P-588, P-6995/M-22-221**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **SECOND PREHEARING ORDER, PROTECTIVE ORDER, and PROTECTIVE ORDER FOR HIGHLY CONFIDENTIAL TRADE SECRET DATA** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, nichole.helmuelle@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



NICHOLE HELMUELLER
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

<p>In the Matter of the Petition of LTD Broadband LLC to Expand Its Designation as an Eligible Telecommunications Carrier</p> <p>In the Matter of a Petition to Initiate a Proceeding to Revoke the Expanded Eligible Telecommunications Carrier Designation of LTD Broadband LLC and Deny LTD's Funding Certification for 2023</p>	<p>OAH Docket No.: 60-2500-38516 MPUC P-6995/M-21-133 MPUC P-588, P-6995/M-22-221</p>
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On September 1, 2022, a true and correct copy of the **SECOND PREHEARING ORDER, PROTECTIVE ORDER, and PROTECTIVE ORDER FOR HIGHLY CONFIDENTIAL TRADE SECRET DATA** was served by eService, and United States mail, (in the manner indicated below) to the following individuals:

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