

# Boyce

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August 20, 2021

VIA E-MAIL ONLY

Kara Semmler  
Executive Director and General Counsel  
SDTA  
320 E. Capitol Ave.  
PO Box 57  
Pierre, SD 57501-0057

Re: SD PUC Petitions  
TC21-001  
Our File No.: 15732.000



Dear Kara:

We are in receipt of your letter dated August 18, 2021. We find SDTA's change in position as reflected in that letter disappointing and to be in bad faith.

At least two different times on telephone calls personally attended by me, you confirmed that SDTA was not interested in seeing LTD Broadband LLC's ("LTD") financial information. Based, in part, on those assurances, and in the spirit of compromise, LTD agreed to produce portions of its RDOF application containing operational and technical information requested by SDTA (including, but not limited to LTD's deployment plans for South Dakota), despite prior objections to such requests. These materials were delivered to you immediately upon your execution of the protective order, on Friday, August 13, 2021. It was our very reasonable expectation that such production would resolve all of SDTA's remaining concerns about prior discovery requests, would avoid the need for a motion to compel by SDTA, and would ensure the conclusion of discovery within two weeks. LTD continues to believe that the materials already produced, as well as the financial information requested by SDTA, is specifically shielded from disclosure under the FCC's RDOF rules, and, in any event, is not needed for the Commission to fully consider LTD's ETC Application in accordance with parameters established by the Communications Act.

On August 18, 2021, you raised for the first time that SDTA now believes it is necessary to review LTD's financials. I can say definitively that LTD does not intend to provide that financial information. If SDTA believes it is entitled to it, then please file your motion to compel as soon as practicable.

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Further, you have not responded to our communications regarding the proposed schedule. As you know, the parties have been discussing a proposed procedural order in this matter since August 4, 2021. We agreed to the proposed procedural schedule requested by you on August 9, 2021, which, *per your request*, provided two full weeks for you and SDTA's expert to review any RDOF materials produced by LTD. We produced the RDOF materials on August 13, 2021. The only change from your proposed schedule was the request for the scheduling of a conference call to discuss potential methods for avoiding an evidentiary hearing after the completion of discovery. Enclosed as Exhibit A are the e-mail exchanges reflecting those proposals.

Even though LTD accepted SDTA's proposed deadlines for discovery and pre-filed testimony, you indicated on August 13, 2021 that you could not agree to this schedule without confirming it with your engaged expert. You indicated that you would get back to us on Monday, August 16, 2021, with confirmation as to whether the schedule is agreeable or not. As we told you we were going to do, we filed our Motion for Prehearing Conference in order to set the schedule and guarantee this matter keeps moving. It is now August 20, 2021, and you have not responded to our proposed schedule, which essentially adopts your requested procedural schedule. I would note that we believe that a shorter time frame for the completion of discovery and from the time of completing discovery to filing pre-filed testimony was appropriate. Nevertheless, in an effort to compromise, we agreed to your schedule.

These changes in positions by SDTA are both frustrating and makes it very difficult for LTD to believe SDTA's position is anything other than trying to prevent a competitor from properly building out a network to those customers that SDTA's members has chosen not to serve.

I look forward to hearing from you as soon as possible about the schedule and whether SDTA will honor its prior assurances that it is not interested in seeing our financial information.

Sincerely yours,

BOYCE LAW FIRM, L.L.P.



Jason R. Sutton

JRS/taj

Enclosure

cc: Brett Heather Freedson  
Amanda Reiss