



Cause No. 41052 ETC-96  
**LTD Broadband LLC's Responses to**  
**Indiana Exchange Carrier Association, Inc.**  
**d/b/a Indiana Rural Broadband Association's**  
**First Set of Requests for Production of Document and Other Discovery**

**Request 1.1:** Please provide the confidential financial statement or balance sheet that supports your Application for Designation as an Eligible Telecommunications Carrier in Cause No. 41052-ETC-96.

**OBJECTION:** LTD objects to Request 1.1 on the grounds that Data Request 1.1 is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, Indiana law does not require, nor does the Commission as a matter of course evaluate the extent to which an applicant for *Designation as an Eligible Telecommunications Carrier for the Purpose of Providing Services Supported by the Federal Communications Commission's ("FCC's") Rural Digital Opportunity Fund ("RDOF")* (an "Applicant") has the financial ability to deploy the facilities and services to be supported by RDOF funding. The Commission's inquiry is limited to whether LTD meets the eligibility criteria for ETC designation as contained in Section 214(e)(1) of the Act and related FCC Rules, which do not include a determination of whether the Applicant has the financial ability to deploy the facilities and services for which the carrier will receive RDOF support. In *Tex. Office of Pub. Util. Counsel v. FCC*, the Court interpreted 47 U.S.C. § 214(e)(2), the statute setting forth the parameters for ETC designation, as follows:

[w]ith limited exceptions for rural areas, *a state commission has no discretion when assessing a carrier's eligibility for federal support*. If a carrier satisfies the terms of § 214(e)(1), a state commission must designate it as eligible. Thus, the FCC ruled that a state commission may not impose additional eligibility requirements on a carrier seeking universal service support in non-rural service areas. The agency does permit the states to impose service quality obligations on local carriers if those

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obligations are unrelated to a carrier's eligibility to receive federal universal service support.<sup>1</sup>

Once ETC status is obtained, the carrier must continue to comply with the requirements of Section 214(e) to maintain eligibility to receive support.<sup>2</sup> ETC designation is not a guarantee of continued universal service support and is incentive for carriers to provide the required services and comply with state and federal laws and rules.<sup>3</sup>

LTD further objects to Request 1.1 on the grounds that it seeks disclosure of private and highly confidential financial information protected from unwarranted disclosure or discovery. LTD will not disclose such information until such time as an appropriate Non-Disclosure Agreement has been executed by the parties.

**RESPONSE:** Subject to and without waiver of the foregoing Objection, upon INRBA's execution of a mutually agreeable Non-Disclosure Agreement, LTD will provide **Attachment DR-1.1** which shall be treated as Highly Confidential Information.

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<sup>1</sup> See *Tex. Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 417 (5<sup>th</sup> Cir. 1999) (emphasis added).

<sup>2</sup> See *In re GCC License Corp.*, 623 N.W.2d 474, 481 (2001).

<sup>3</sup> *Id.* at 481.