

Stephen F. Mecham (USB No. 4089)  
CALLISTER NEBEKER & McCULLOUGH  
10 East South Temple Suite 900  
Salt Lake City, Utah 84133  
Telephone: (801) 530-7300  
Facsimile: (801) 364-9127

*Attorneys for Utah Rural Telecom Association*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Application of Bresnan Broadband of Utah, LLC for a Certificate of Public Convenience and Necessity to Operate as a Competitive Local Exchange Carrier in Utah	DOCKET NO. 07-2476-01
---	-----------------------

**POST-HEARING BRIEF OF THE  
UTAH RURAL TELECOM ASSOCIATION (“URTA”)**

## I. INTRODUCTION

The application of Bresnan Broadband of Utah, LLC (“Bresnan”) for a certificate of public convenience and necessity to provide local exchange service in the Vernal, Utah exchange is a case of first impression and presents the Public Service Commission (“Commission”) with an issue of significant public interest. This is the first application to provide local service in a rural exchange where the incumbent provider’s<sup>1</sup> services are supported by the Utah Universal Public Telecommunications Service Support Fund (“USF”). The Commission’s decision in this case may well set precedent for subsequent applications to enter rural exchanges, and will establish precedent for exchanges with more than 5,000 access lines.<sup>2</sup>

In order for the Commission to grant Bresnan’s application, it must first determine that Bresnan has sufficient technical, managerial, and financial resources to provide the proposed services. The Commission must also determine that issuing the certificate would be in the public interest.<sup>3</sup> On this record, Bresnan has not provided evidence that it has the financial resources to provide the proposed services.<sup>4</sup> It is also clear from this record that granting the application is not in the public interest. Neither Bresnan nor the Division of Public Utilities (“Division”)<sup>5</sup> demonstrated that any positive benefit issuing the certificate may have outweighs the negative impact of up to \$500,000 annually issuing the certificate would have on the USF. This is the public interest standard that the Commission established in Docket No. 98-2216-01 and that the

---

<sup>1</sup> UBTA-UBET is the incumbent service provider in this case.

<sup>2</sup> The record only addresses the Vernal exchange which has more than 5,000 access lines. Utah Code Ann. § 54-8b-2.1(3)(c) gives the Commission specific authority to separately address exchanges with fewer than 5,000 access lines.

<sup>3</sup> Utah Code Ann. § 54-8b-2.1(2)(a) and (b).

<sup>4</sup> See Confidential Bresnan Exhibit 2, Attachment F.

<sup>5</sup> The Committee of Consumer Services agreed with the Division’s position but performed no independent analysis. Any challenge of the Division’s position therefore applies equally to the Committee’s.

Utah State Supreme Court affirmed.<sup>6</sup> Bresnan and the Division failed to suggest any other standard by which to judge public interest. At hearing, the Division acknowledged that it had not recommended a standard that the Commission could apply in future cases.<sup>7</sup> The policy Division witnesses advocated, however, favored customer choice and competition over universal service.<sup>8</sup>

Given the record in this case, URTA recommends that the Commission deny Bresnan's application for failing to meet the statutory requirements to grant a certificate. Bresnan has not demonstrated that it has the financial ability to provide the services that it seeks to provide, and neither Bresnan nor the Division has shown that benefits from Bresnan's entry into the Vernal exchange will outweigh the harm that entry will do to the USF.

Alternatively, if the Commission determines that Bresnan has met the requirements for a certificate, URTA urges the Commission to establish a clear, predictable public interest standard for entry into rural exchanges with greater than 5,000 access lines. Without such a standard, the Commission and the parties will be without direction and the USF will sustain incremental erosion with each application the Commission grants. The cumulative impact of the Commission's actions without such a standard could ultimately render the USF unsustainable to the detriment of all Utah customers in high cost areas. URTA also recommends that the Commission limit this standard to exchanges with more than 5,000 access lines and only treat exchanges with fewer than 5,000 access lines in a separate case or rulemaking.

---

<sup>6</sup> See, *WWC Holding Co., Inc. v. Public Service Commission of Utah*, 44 P.3d 714 (Utah 2002).

<sup>7</sup> Tr. p. 413, Lines 10-11.

<sup>8</sup> Id., Lines 6-11.

## ARGUMENT

### II. BRESAN HAS NOT PROVIDED EVIDENCE THAT IT HAS THE FINANCIAL RESOURCES TO PROVIDE THE SERVICES IT PROPOSES TO PROVIDE IN ITS APPLICATION

Utah Code Ann. § 54-8b-2.1(2)(a) requires that before the Commission issue a certificate, it must first determine that the applicant has sufficient technical, managerial, and financial resources “...to provide public telecommunications services applied for.” Bresnan Exhibit 2, Confidential Attachment F illustrates that Bresnan may not have the necessary financial resources to provide the services it proposes to provide in its application. The exhibit raises serious concerns about Bresnan’s ability to perform. In addition, Bresnan is seeking a waiver of the Commission’s requirement to file five year *pro forma* income and cash flow statements with the application and consequently filed none of that required data.<sup>9</sup> There is nothing in the record of this case that shows that Bresnan will have sufficient cash flow to meet its cash needs over the first five years of operation. The Division has apparently consented to the waiver and did not require the statements for its analysis of Bresnan’s ability to perform,<sup>10</sup> which may in part be due to the Division staff’s view that *pro formas* are “largely fiction”<sup>11</sup> and of “limited value.”<sup>12</sup> Failing to file the *pro forma* statements, however, hampered URTA in doing its own analysis of Bresnan’s application. As a result, URTA witness Meredith had to resort to other means by which to determine the impact of Bresnan’s application on the USF.<sup>13</sup>

---

<sup>9</sup> The requirement to file *pro forma* statements is in Utah Admin. Code R746-349-3A.12.a. Bresnan requested waiver on p. 7 of its application, Bresnan Exhibit 2.

<sup>10</sup> Tr. p. 419, Lines 22-24.

<sup>11</sup> Tr. p. 359, Lines 23-24.

<sup>12</sup> Tr. p. 396, Lines 4-7.

<sup>13</sup> Tr. p. 285, Lines 7-22.

Apart from Bresnan's failure to file the required *pro forma* statements, in discovery it could provide no projections for its expected performance in Utah.<sup>14</sup> Bresnan simply had done no projections. During the hearing on cross examination, Bresnan's witness was unable to answer any questions concerning Bresnan's plans or projections in Vernal.<sup>15</sup> Given all of these circumstances, it is difficult to find that Bresnan will have the financial resources and the necessary cash flow to provide the services it has proposed to provide during the first year of operations, let alone the subsequent four years that are required by the Commission's rule. Bresnan has failed to meet the minimal statutory criteria for issuing a certificate and therefore, the Commission should deny Bresnan's application.

### **III. ISSUING A CERTIFICATE TO BRESNAN IS NOT IN THE PUBLIC INTEREST**

#### **A. Bresnan's Application Does Not Satisfy the Public Interest Test Established by the Commission in Western Wireless**

Separate from and in addition to the mandates of Utah Code Ann. § 54-8b-2.1(2)(a), Utah Code Ann. § 54-8b-2.1(2)(b) requires that the Commission determine that issuing a certificate is in the public interest. The statute sets no specific criteria or standard for making that determination, but when faced with similar circumstances in Docket No. 98-2216-01 ("Western Wireless"), the Commission considered the potential impact on the USF as the test to determine the public interest.

In spite of Division testimony to the contrary, Western Wireless presented as close an analogy to this case as it could have without actually being this case. The Division argued unpersuasively that Western Wireless's pursuit of eligible telecommunications carrier ("ETC")

---

<sup>14</sup> URTA Exhibits 1.3 and 1.4.

<sup>15</sup> Tr. p. 28, Lines 5-9; p. 29, Lines 16-25; p. 30, Lines 1-2.

status somehow rendered it inapplicable here, but that simply is not true.<sup>16</sup> The only difference between the two cases is that Bresnan is not seeking to become an ETC yet.<sup>17</sup> In all other respects the cases are the same: Bresnan is seeking to provide service in a rural exchange; the incumbent, UBTA-UBET, is traditionally regulated on a rate of return basis; and, UBTA-UBET's Vernal exchange where Bresnan has applied to enter is supported by the USF. That Bresnan will not qualify for state USF support until it becomes an ETC does not minimize the fact that its entry into the Vernal exchange will harm the USF. Granting ETC status would only compound that harm.

As with granting Bresnan's application in this case, the negative impact granting Western Wireless's application could have had on the USF was the principal issue and the policy question the Commission had to answer in that case. That impact, together with the paucity of offsetting benefits, formed the public interest test the Commission used to deny Western Wireless's application.

In a sense the State Fund is the final revenue that makes these companies' rate of return meet the required levels. After all other sources of funds are considered, the State Fund must make up the difference between reasonable costs and all revenues. If, by designating Western Wireless as an additional ETC in the respective study areas of the URTA Companies, the effect is to reduce the companies' revenue, without an equal reduction in costs, the State Fund would be called upon to make up the difference. Such a situation would cause a significant increase in the burdens placed upon the State Fund (i.e., all Utah telecommunications customers) without corresponding public benefits.<sup>18</sup>

---

<sup>16</sup> DPU Exhibit 1, Lines 170-171.

<sup>17</sup> Tr. p. 32 lines 22-25; p. 33 lines 1-6. Bresnan's witness testified that it is possible that Bresnan will seek ETC status in the future. Were that to occur, this case would be just like Western Wireless in every respect except that the Commission would have to face the ETC issue and the additional negative impact that will have on the USF at a later stage if Bresnan's application is granted in this case.

<sup>18</sup> Report and Order issued July 21, 2000 in Docket No. 98-2216-01.

Were the Commission to grant Bresnan's application to provide service in the Vernal exchange, UBTA-UBET's revenues would be reduced without an equal reduction in costs requiring the USF to make up the difference. Likewise, there would be no corresponding offsetting public benefits to compensate for the harm granting Bresnan's application would have on the USF.

**1. The Harm to the USF Would Be Too Great to Grant Bresnan's Certificate**

Bresnan made no attempt to determine the negative impact its entry in the Vernal exchange would have on the USF.<sup>19</sup> URITA witness Douglas Meredith testified that Bresnan's entry could realistically result in an annual loss to the USF of approximately \$500,000 after a two to four year ramp up of operations, assuming that Bresnan can provide service in the Vernal exchange as it claims.<sup>20</sup> In spite of Bresnan's failure to file any company-specific projections in this case,<sup>21</sup> Mr. Meredith was able to reach this conclusion by using the average revenue per access line of UBTA-UBET's telephone customers who also take cable TV service from Bresnan and assuming that 60 percent of those customers would switch to Bresnan's Digital Voice service. This take rate is 20 percent lower than the 80 percent take rate Comcast reported for its video-data-voice services during the first quarter of 2007 which demonstrates that 60 percent is well within the reasonable take-rate range.<sup>22</sup> Mr. Meredith was able to further crosscheck his estimate by comparing it to a 20 percent take rate of all households and

---

<sup>19</sup> URITA Exhibit 1.1.

<sup>20</sup> Tr. p. 335, Line 5.

<sup>21</sup> URITA Exhibit 2.11.

<sup>22</sup> URITA 2, p. 17.

businesses that Bresnan's facilities pass and found that \$500,000 was conservative and on the lower end of the reasonable take-rate range in this case.<sup>23</sup>

The Division criticized URTA's estimate because the average revenue per line calculation did not distinguish between business and residential access lines.<sup>24</sup> While that is a valid criticism, the data was not available<sup>25</sup> and certain facts mitigate the possible effect of the missing data on URTA's estimate. The Division was completely unfamiliar with the business customers in the Vernal exchange and therefore did not know if they were high revenue customers or not.<sup>26</sup> Mr. Coleman pointed to the \$10 differential between the business and residential affordable base rates as evidence that URTA's estimate is high, but that alone may not offset the loss of revenues from high toll-use residential customers that subscribe to many UBTA-UBET features who switch to Bresnan's service. In rural areas, it simply is not a foregone conclusion that business customers generate more revenues than residential customers.<sup>27</sup> Consequently, the effect of averaging revenues between business and residential access lines may not dramatically affect URTA's estimate; in fact the effect could be negligible.

On a broader scope, URTA's estimate could not take into account the negative impact on the USF of the policy the Division is proposing when, if adopted, other cable companies and CLECs would be able to enter rural areas supported by the USF. Were that to occur, the effect on the USF could be ruinous. Several rural providers have higher average USF distribution rates per line than UBTA-UBET which would further hasten the erosion in the USF.<sup>28</sup> Losses sustained by the rural providers where CLECs were allowed to enter would have to be made up

---

<sup>23</sup> URTA 2, Lines 304-314.

<sup>24</sup> Tr. p. 428, Lines 3-5.

<sup>25</sup> Tr. p. 306, Lines 1-7.

<sup>26</sup> Tr. p. 483, Lines 2-13.

<sup>27</sup> Tr. p. 306, Lines 14-19.

<sup>28</sup> URTA Exhibit 1, Lines 160-161.



by the USF. Continued upward pressure on USF distributions could make it difficult to maintain public approval and support for the USF at the expense of high cost areas and rural telecommunications customers. The Division, however, did not want to consider the potential cumulative impact of its proposed policy.<sup>29</sup>

UBTA-UBET witness Ray Hendershot corroborated URTA's estimate of the negative impact granting Bresnan's application would have on the USF. Using Bresnan's current penetration rate among its existing customers, Mr. Hendershot estimated that UBTA-UBET would lose between \$450,000 and \$550,000 that the USF would have to make up ultimately.<sup>30</sup>

Division witness Casey Coleman also attempted to estimate the negative impact granting Bresnan's application would have on the USF and suggested a range of between \$125,000 and \$250,000.<sup>31</sup> It is the Division's position that at this level, after balancing the perceived benefits of competition against the negative consequences Bresnan's entry will have, that the loss to the USF is acceptable.<sup>32</sup>

URTA believes Mr. Coleman's analysis is irreparably flawed for three reasons. First, in determining the revenues UBTA-UBET and the USF would lose if the Commission were to grant Bresnan's application, Mr. Coleman only included the affordable base rate, the carrier common line charge, and the Vernal exchange extended area service charge (EAS) in his calculation. Those three elements do not capture all of the revenue generated by an access line and as a result, the Division's calculation significantly underestimates the losses UBTA-UBET will incur. There is no provision for access charge revenues or for local service feature revenues

---

<sup>29</sup> Tr. p. 401, Lines 8-11.

<sup>30</sup> UBTA-UBET Exhibit 1, Line 134. Tr. at p. 184, Lines 16-22.

<sup>31</sup> Tr. p. 426, Lines 1-5. The upper end of Mr. Coleman's range is \$275,000 in DPU Exhibit 2, Line 282.

<sup>32</sup> Tr. p. 495, Lines 21-23.

for example, an omission Mr. Coleman acknowledged.<sup>33</sup> Omitting these revenues unfairly diminishes the negative impact on the USF and the losses it would sustain.

Second, Mr. Coleman's suggested take rate range of 25 percent to 40 percent is unreasonably low and based only on a "best guess or gut feeling."<sup>34</sup> In addition, the Division's take rate point estimate of 27 percent is simply a comparison of Bresnan's overall telephone customer take rate to Bresnan's total customer base.<sup>35</sup> That comparison significantly skews downward the impact on the USF because Bresnan's total customer base includes many areas where Bresnan's Digital Voice service is not available. In order for the comparison to be meaningful, the Division would have had to exclude those customers without access to Bresnan's voice service from the base. That information is not available on this record, leaving the Division's take rate estimate of virtually no value to the Commission in judging the negative impact of Bresnan's entry into the Vernal exchange.

Third, Mr. Coleman's analysis for the Division only considers a 12 month period to estimate UBTA-UBET's losses and the negative impact on the USF.<sup>36</sup> That timeframe is so short that it cannot accurately measure the total impact of Bresnan's entry into the Vernal exchange. Bresnan would be ramping up its new voice service during part of the 12 months. Selecting such a short period obviously causes the Division's estimate to fall far short of the actual negative impact.

In addition to URTA's criticisms of the Division's analysis, URTA rejects the Division's overall approach to the impact issue. Mr. Coleman testified that the estimates calculated by all

---

<sup>33</sup> Tr. p. 477, Lines 16-17.

<sup>34</sup> DPU Exhibit 2, Line 231. Tr. p. 490, Lines 3-25 also shows that the range is based on anecdote and Division staff discussion.

<sup>35</sup> Tr. p. 490, Lines 7-15.

<sup>36</sup> Tr. p. 429, Lines 7-9.

of the parties were close even though they were at least \$250,000 apart, because after the impact of any of the estimates is spread over all of the end user customers in the state, it would be negligible.<sup>37</sup> The example he used involved a penny.<sup>38</sup> If the Commission established that as its standard, the negative impact of Bresnan's entry could be five times greater than URTA's \$500,000 estimate and it would not matter. Assuming 2,400,000 access lines in Utah, customers' bills would only increase approximately \$0.08 per month which, according to the Division's negligible impact standard, they could easily absorb. This position illustrates how the Division's proposal favors competition at the expense of universal service and the Commission should reject it.

A better, fairer measure might be the percentage any negative impact represents of the amount actually distributed from the USF annually to support high cost areas. For 2006, URTA's estimate would exceed 8 percent of the USF distributions and that is significant.

The Division also suggested that the negative impact could be absorbed by the USF at the current surcharge, particularly now that at least two of the rural carriers receive lower or no distributions.<sup>39</sup> The intent of the suggestion is that customers would suffer no harm since there would be no increase, but that ignores the fact that the Commission could reduce the surcharge if Bresnan were not allowed to enter the Vernal exchange and there were no negative impact on the USF. There is a negative impact caused by Bresnan's entry whether the surcharge remains constant or increases.

---

<sup>37</sup> Tr. p. 477, Lines 19-25; p. 478, Lines 1-5.

<sup>38</sup> Tr. p. pps. 473-474; *See also* p. 388, Lines 9-10.

<sup>39</sup> Tr. p. 352, Lines 15-19. DPU 1, Lines 262-266.

**2. Bresnan Failed to Demonstrate that Its Application Offers Corresponding Offsetting Benefits to Compensate for the Harm Granting the Application Would Have on the USF**

Even if the Commission accepts the Division's calculation of the harm to the USF Bresnan's entry will cause, the record in this case poignantly shows there would not be adequate corresponding benefits to offset even that burden. Bresnan was unable to demonstrate that there would be any economic benefit by allowing it to serve in Vernal.<sup>40</sup> Bresnan's witness did not know if Bresnan had plans to build in brownfields, in greenfields, or in both.<sup>41</sup> Bresnan could not even show that all Vernal residents would benefit from its services if the Commission were to grant its application, let alone any other telecommunications customers in the state.<sup>42</sup>

As for customers outside the Vernal exchange, Bresnan's service would provide no benefit. There would be no increase in collections in the USF since Bresnan's customers would have paid the same USF surcharge as UBTA-UBET customers.<sup>43</sup> In addition, Bresnan's service offering would not extend the reach of the public switched network because its customers would have been on the network already.

Bresnan's entry into the Vernal exchange could be a serious detriment to UBTA-UBET's other customers outside the Vernal exchange because they lose the internal subsidies generated by averaged rates throughout UBTA-UBET's study area.<sup>44</sup> The internal subsidies in the Vernal exchange keep rates in the outlying, higher cost areas lower than their respective costs. This occurs even if the Commission requires Bresnan to serve the entire Vernal exchange. Vernal is

---

<sup>40</sup> Tr. p. 28, Lines 17-23.

<sup>41</sup> Tr. p. 28, Lines 5-9.

<sup>42</sup> Tr. p. 29, Lines 6-11.

<sup>43</sup> Tr. p. 43, Lines 24-25; p. 44, Lines 1-8. Tr. p. 62, Lines 3-18: Bresnan argued there is a benefit because a landline would be more reliable than a wireless telephone but that would not offset the harm to the USF.

<sup>44</sup> Tr. p. 179, Lines 21-25; p. 180, Lines 1-8.

the cherry being picked from UBTA-UBET and either UBTA-UBET's other customers will suffer or the burden of the lost internal subsidies will be imposed on the USF and all telecommunications customers in the state. Bresnan failed to show any benefits of its service for telecommunications customers outside the Vernal exchange that can offset the damage granting its application would cause and the Commission should deny the application.

**B. The Division Also Failed to Demonstrate Corresponding Public Benefits to Offset the Harm Granting Bresnan's Application Would Do to the USF and the Public Interest**

In developing its recommendation that the Commission approve Bresnan's application, the Division relied heavily on customer choice as the ostensible corresponding public benefit to offset the negative impact Bresnan's entry into the Vernal exchange would have on the USF.<sup>45</sup> Customer choice alone, however, does not overcome the damage URTA, UBTA-UBET, and even the Division have estimated Bresnan's entry will cause. Choices similar to the choice Bresnan is proposing to offer are already available in Vernal. Customers there can take service from several Voice over Internet Protocol providers and wireless carriers today that provide essentially the same services that Bresnan is seeking to provide under its application according to the Division's pre-filed testimony.<sup>46</sup> These providers have been able to enter without Commission approval, but that does not change the requirements of Utah's competitive entry statute or the Commission's jurisdiction. The Commission still has jurisdiction over Bresnan's application and can determine that the application is not in the public interest, and on this record, that would be the correct decision.

While entry by non-regulated providers has given Vernal customers competitive choice, it has also diminished any value that Bresnan's entry might otherwise have had. In balancing

---

<sup>45</sup> Tr. p. 362, Lines 12-15.

<sup>46</sup> DPU 1, Lines 371-382.

that decreased value against the harm Bresnan's entry will cause to the USF, the scales tumble down against Bresnan.

The Division also attempted to demonstrate other corresponding public benefits of granting Bresnan's application, but none of them were compelling. In fact, the examples Division witness Mr. Coleman cited were, as he testified, basically from a textbook.<sup>47</sup> None of them were concrete or measurable for purposes of the public interest balancing test. They were conceptual and perceived. Mr. Coleman contended that competition would bring technological innovation, for example, at a more rapid pace.<sup>48</sup> While technological innovation is important, the rapidity with which it reaches and affects the market is impossible to measure or compare. UBTA-UBET already provides digital service to every customer in their service territory who wants it.<sup>49</sup> Whether that service would have been available faster if Bresnan were the Vernal exchange is impossible to know. What is known, however, is that digital service and digital subscriber line service are not available to all customers along the Wasatch Front where CLECs have been providing service in competition with the incumbent provider for several years. Contrary to textbook theory then, UBTA-UBET has been able to provide that innovation more rapidly than the providers where there is competition from CLECs.

Like Bresnan, the Division has not provided evidence of concrete corresponding public benefits to offset the damage granting Bresnan's application will do to the USF and the public interest. The Commission, therefore, should reject the Division's recommendation and deny Bresnan's application.

---

<sup>47</sup> Tr. p. 435, Lines 6-9.

<sup>48</sup> DPU 2, Lines 407-409.

<sup>49</sup> Tr. pps. 90-91.

#### **IV. Conclusion**

This case is a case of first impression that will establish critical public policy and will set a precedent for future CLEC applications to provide service in rural, high cost areas supported by the USF. It certainly will set a precedent for applications to enter rural exchanges with more than 5,000 access lines. URTA strongly urges the Commission to deny Bresnan's application for failing to meet all of the criteria for a certificate and for not being in the public interest. Bresnan has not shown that it will have the financial capability to provide the services it is proposing to provide in its application in the first year of operation let alone in the first five years of operation. It did not provide the five year *pro forma* income and cash flow statements that are required by Commission rule. In addition, Bresnan Exhibit 2, Confidential Attachment F raises serious doubts about Bresnan's ability to perform.

Estimates from URTA, UBTA-UBET, and the Division, demonstrated that Bresnan's entry into the Vernal exchange will damage the USF between \$125,000 and \$550,000. Although the Division's estimate range of \$125,000 to \$250,000 is too low, neither Bresnan nor the Division could itemize concrete corresponding public benefits that would offset even the lowest estimate on the range. Bresnan was unable to give any projections on how it would move forward in Vernal so that all of the customers there could benefit. The Division gave theoretical textbook examples of potential benefits that are perceived, speculative and cannot be measured or proven. In any event, to the degree granting Bresnan's application offers any benefits, they are not substantive enough to overcome the harm Bresnan's entry would do to the USF and the public interest.

In the alternative, if the Commission concludes that Bresnan has met the requirements for a certificate, URTA requests that the Commission establish a clear, predictable public interest

standard for entry into rural exchanges with greater than 5,000 access lines. As stated before, without such a standard, the Commission and the parties will have no direction and the USF will sustain incremental erosion with each application the Commission grants. The cumulative impact of the Commission's actions could ultimately render the USF unsustainable to the detriment of all Utah customers in high cost areas. URTA also recommends that the Commission limit this standard to exchanges with more than 5,000 access lines and only treat exchanges with fewer than 5,000 access lines in a separate, subsequent case or rulemaking.

Respectfully submitted this 10<sup>th</sup> day of October, 2007.

Callister Nebeker & McCullough

s//Stephen F. Mecham  
Stephen F. Mecham



Certificate of Service

I hereby certify that on this 10<sup>th</sup> day of October, 2007, I caused to be emailed a true and correct copy of the foregoing Post-Hearing Brief of the Utah Rural Telecom Association filed in Docket No. 07-2476-01 to the following:

James A. Holtkamp  
[jholtkamp@hollandhart.com](mailto:jholtkamp@hollandhart.com)

Thorvald A. Nelson  
[tnelson@hollandhart.com](mailto:tnelson@hollandhart.com)

Jerold Lambert  
[jlambert@bresnan.com](mailto:jlambert@bresnan.com)

Stanley K. Stoll  
[StanS@blackburn-stoll.com](mailto:StanS@blackburn-stoll.com)

Kira M. Slawson  
[KiraM@blackburn-stoll.com](mailto:KiraM@blackburn-stoll.com)

Michael Ginsberg  
[mginsberg@utah.gov](mailto:mginsberg@utah.gov)

Dennis Miller  
[dennismiller@utah.gov](mailto:dennismiller@utah.gov)

Paul Proctor  
[pproctor@utah.gov](mailto:pproctor@utah.gov)

s//Stephen F. Mecham