

JEROLD C. LAMBERT
BRESNAN COMMUNICATIONS, LLC
1 Manhattanville Road
Purchase, NY 10577
jlambert@bresnan.com

THORVALD A. NELSON
HOLLAND & HART LLP
8390 East Crescent Pkwy, Suite 400
Greenwood Village, CO 80111
tnelson@hollandhart.com

JOEL D. WRIGHT (10477)
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
Salt Lake City, UT 84111-1031
jdwright@hollandhart.com

Attorneys for Bresnan Broadband of Utah, LLC

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

Motion to Bifurcate Docket No. 07-2476-01

Bresnan Broadband of Utah, LLC (“Bresnan”) filed an application for a Certificate of Public Convenience and Necessity (CPCN) on February 5, 2007 with the Utah Public Service Commission (the “Commission”) requesting a single CPCN to serve Qwest territory and the local exchange area in Vernal, Utah.

Pursuant to Rule 42(b) of the Utah Rules of Civil Procedure, Bresnan now requests that the Commission separate Bresnan’s CPCN application into two separate dockets for the

convenience of all parties now involved, and to expedite the proceedings.

Rule 42(b) allows the Commission to grant such request in the “furtherance of convenience”, and there is ample case authority supporting such requests for separation.¹

Specifically, Bresnan believes it would be more convenient for both the Commission and the parties who have intervened to date if Docket No. 07-2476-01 were split because it appears there are no issues related to Bresnan’s request for a CPCN in Qwest territory, and Qwest has not intervened. In contrast, it appears there could be potential issues for discussion related to Bresnan’s request for a CPCN in the Vernal local exchange area, and it appears that both the incumbent provider in Vernal (UBTA-UBET) and the Utah Rural Telecom Association (URTA) have intervened to be involved in such discussions. In addition, a split would likely expedite the requested CPCN in Qwest territory, and also likely expedite the requested CPCN in the Vernal local exchange area, which would lower the cost of entry and increase competition in both areas.

Bresnan thus respectfully requests that the Commission split Bresnan’s single CPCN request into two CPCN requests, and create a new docket for the second CPCN request. The first request shall be a request for a CPCN in the Vernal, Utah local exchange area which will remain in the existing docket (07-2476-01), and the second request shall be for a CPCN in Qwest territory in a new docket created by the Commission, for the reasons given herein.

¹ See *Stevenson v. Goodson*, 924 P.2d 339 (Utah Supreme Court 1996) (Trial court’s decision to bifurcate was supported by ample evidence and neither attorney nor mortgagees objected to schedule and bifurcation.) See also *King v. Barron*, 770 P.2d 975 (Utah Supreme Court 1988) (Severance is standard procedural practice and may be resorted to for convenience and at the discretion of the trial court.)

DATED this 17th day of April, 2007.

/s/ Joel D. Wright

JOEL D. WRIGHT (10477)
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
Salt Lake City, UT 84111-1031

Thorvald A. Nelson
HOLLAND & HART LLP
8390 East Crescent Parkway
Suite 400
Greenwood Village, CO 80111

Jerold C. Lambert
BRESNAN COMMUNICATIONS, LLC
Associate General Counsel
One Manhattanville Road
Third Floor
Purchase, NY 10577

ATTORNEYS FOR BRESNAN BROADBAND
OF UTAH, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of April, 2007, an original, five (5) true and correct copies, and an electronic copy of the foregoing **MOTION FOR PROTECTIVE ORDER** were hand-delivered to:

Ms. Julie Orchard
Commission Secretary
Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
mlivingston@utah.gov

and a true and correct copy, hand-delivered to both:

Michael L. Ginsberg, Esq.
Patricia Schmid
Assistant Attorney Generals
Office of the Utah Attorney General
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
mginsberg@utah.gov
pschmid@utah.gov

Casey J. Coleman, Utility Analyst
Dennis Miller, Legal Assistant
State of Utah
Division of Public Utilities
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
ccoleman@utah.gov
dennismiller@utah.gov

and a true and correct copy sent via first class mail, or emailed in PDF format, to the following:

Stanley K. Stoll (3960)
Kira M. Slawson (7081)
BLACKBURN & STOLL, LC
257 East 200 South, Suite 800
Salt Lake City, Utah 84111
sstoll@blackburn-stoll.com
kslawson@blackburn-stoll.com
Attorneys for UBTA-UBET Communications, Inc.

Stephen F. Mecham (4089)
Callister Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, Utah 84133
sfmecham@cnmlaw.com
Attorney for the Utah Rural Telecom Association

Eric Orton
Utah Committee of Consumer Services
Heber M. Wells Building
160 East 300 South, Suite 200
PO Box 146782
Salt Lake City, UT 84114-6782
eorton@utah.gov

Paul H. Proctor (#2657)
Reed T. Warnick (#3391)
Assistant Attorneys General
Utah Committee of Consumer Services
160 East 300 South
P.O. Box 140857
Salt Lake City, Utah 84114-0857
pproctor@utah.gov
rwarnick@utah.gov

Joel D. Wright