

**BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH**

<p>In the Matter of:</p> <p>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</p>	<p>DOCKET NO. 07-2476-01</p>
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**DIRECT TESTIMONY
OF
RAYMOND A. HENDERSHOT
ON BEHALF OF
UBTA-UBET COMMUNICATIONS, INC.**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Raymond A. Hendershot. My business address is 2270 LaMontana Way,
3 P.O. Box 25969, Colorado Springs, Colorado 80936.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am a Vice President for GVNW Consulting, Inc. (“GVNW”).

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
7 **EXPERIENCE.**

8 A. I graduated from Brigham Young University with a Bachelor’s Degree in Accounting in
9 1972 and a Master’s Degree of Accounting in 1973. I received a CPA Certificate from
10 Texas. Upon graduation, I was employed by General Telephone and Electronics
11 (“GTE”), currently know as Verizon, where I served in a variety of positions within the
12 financial area of the company. In 1985, I joined GVNW. GVNW provides a wide
13 variety of management services within the telecommunications industry. My primary
14 areas of responsibility include the development of rates and tariffs, preparation of toll
15 cost separation studies and depreciation rate studies, consulting on acquisitions and sales
16 of telephone properties, and providing various other management services.

17 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**
18 **COMMISSIONS?**

19 A. Yes. I have provided testimony on telecommunications issues before this Commission
20 on numerous occasions in various telephone company filings and generic regulatory

21 proceedings. I have also testified in various telephone company filings and generic
22 regulatory proceedings before the Arizona Corporation Commission, the Idaho Public
23 Utilities Commission, the Nevada Public Utilities Commission, the Texas Public Utilities
24 Commission, the Washington Utilities and Transportation Commission, the Wisconsin
25 Public Service Commission, the Wyoming Public Service Commission.

26 **Q. FOR WHOM ARE YOU APPEARING IN THIS PROCEEDING?**

27 A. I am appearing on behalf of UBTA-UBET Communications, Inc. (“UBTA-UBET” or
28 “Company”), an Intervenor in this case.

29 **Q. ARE YOU APPEARING AS THE ONLY SPOKESPERSON FOR UBTA-UBET IN**
30 **THIS PROCEEDING?**

31 A. No. My comments address areas of general concern to the Company. The Company is a
32 party to these proceedings and may choose to provide additional comments regarding
33 issues of special interest to the company.

34 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

35 A. The purpose of my testimony is to set forth the position of UBTA-UBET in regards to the
36 Application of Bresnan Broadband, LLC (“Bresnan”) for a Certificate of Public
37 Convenience and Necessity (“CPCN”) to provide telephone service in the Vernal
38 exchange of UBTA-UBET. Bresnan calls its telephone service Digital Voice and uses
39 internet protocol to connect to the Public Switched Telephone Network (“PSTN”).

40 **Q. IS THE BRESNAN APPLICATION BEFORE THE PUBLIC SERVICE**
41 **COMMISSION OF UTAH (“COMMISSION” OR “UPSC”) DIFFERENT FROM**

42 **PRIOR APPLICATIONS THAT THE COMMISSION HAS REVIEWED AND**
43 **APPROVED OVER THE YEARS?**

44 A. Yes. Bresnan’s Application is specifically requesting authority to provide local
45 telecommunications services in the Vernal, Utah exchange. The Vernal exchange is
46 within the certificated service area of UBTA-UBET, an independent, rate-of-return
47 regulated local exchange carrier. This is the first application expressly requesting
48 authority for a facilities-based, Competitive Local Exchange Carrier (“CLEC”) to provide
49 local telecommunications services in an area served by an independent telephone
50 company in the state. To my knowledge there are no certificated CLECs providing
51 services in rural exchanges in the State of Utah.

52 **Q. SHOULD THERE BE SIGNIFICANT DIFFERENCES IN THE COMMISSION’S**
53 **REVIEW AND CONSIDERATION OF A CLEC APPLICATION IN THE QWEST**
54 **AREA AS COMPARED TO AN AREA SERVED BY AN INDEPENDENT LOCAL**
55 **EXCHANGE CARRIER SUCH AS UBTA-UBET?**

56 A. Yes. There are a number of significant differences which the Commission should
57 acknowledge and consider in evaluating any application by a CLEC to serve in a rural,
58 independent exchange or service area. In this case, in addition to the general
59 requirements imposed under Utah law and the Commission’s Rules, the Commission
60 should take into consideration, in evaluating Bresnan’s Application, the impact that
61 Bresnan’s entry into the Vernal market will have on the subscribers in Vernal generally
62 as well as those customers outside of Vernal which are served by UBTA-UBET. In

63 addition, the Commission should also consider the impact of a second provider in the
64 Vernal exchange on the state's Universal Public Telecommunications Service Support
65 Fund ("state USF") as well as additional burdens that may be imposed on
66 telecommunications subscribers throughout the state as part of its public interest
67 evaluation.

68 **Q. DOES UBTA-UBET CURRENTLY RECEIVE STATE USF?**

69 A. Yes. In UBTA-UBET's recent rate case, the Commission recognized that the areas
70 within UBTA-UBET's certificated service territory, including the Vernal exchange, are
71 high cost areas and, thus, the Company and those subscribing to the services of the
72 Company were entitled to the benefit of support from the state USF.

73 **Q. DOES UBTA-UBET PROVIDE SERVICE THROUGHOUT THE ENTIRE**
74 **UINTAH BASIN AREA?**

75 A. Yes. UBTA-UBET provides telephone services, as the carrier of last resort, in the
76 exchanges of Lapoint, Altamont, Fruitland, Flattop, Neola, Randlett, and Tabiona,
77 Duchesne, Roosevelt and Vernal. The areas served by the above-named exchanges
78 constitute what is commonly known as the Uintah Basin. The Duchesne, Roosevelt and
79 Vernal exchanges were acquired from Qwest in April 2001. As the carrier of last resort
80 in the Uintah Basin, UBTA-UBET has the obligation to provide ubiquitous service
81 through its serving area including service to new subdivisions. This obligation extends to
82 constructing facilities that would serve areas in which Bresnan would also construct its
83 facilities.

84 **Q. WHAT AREA IS BRESNAN PROPOSING TO SERVE?**

85 A. It is my understanding from the information provided by Bresnan that it primarily plans
86 to provide service in those areas in the Vernal exchange in which it has its own facilities.
87 Based on the information provided by Bresnan in its Application and in its responses to
88 UBTA-UBET Data Requests, it appears that Bresnan's facilities would extend to only a
89 fraction of the Vernal exchange. In areas within the exchange where it does not have
90 facilities, Bresnan states that it proposes to use the facilities of UBTA-UBET if it is
91 required by the Commission to offer service throughout the exchange.

92 **Q. WILL A SECOND PROVIDER OF TELECOMMUNICATION SERVICE IN THE**
93 **VERNAL EXCHANGE BENEFIT THE SUBSCRIBERS IN THE UINTAH**
94 **BASIN?**

95 A. No. Bresnan advocates that competition in the Vernal exchange will benefit Vernal
96 subscribers through choice resulting in lower costs to the consumer. The flaw in
97 Bresnan's position is that Bresnan will only offer its Digital Voice services to a select
98 group of subscribers to whom Bresnan has constructed facilities. As a result, those
99 customers not served by Bresnan in the Vernal exchange and all other customers
100 throughout the Uintah Basin would, in essence, bear the burden of Bresnan as a second
101 service provider.

102 **Q: IN WHAT WAY WOULD CUSTOMERS IN THE VERNAL EXCHANGE AND**
103 **UINTAH BASIN NOT SERVED BY BRESNAN BEAR THE BURDEN OF**
104 **BRESNAN AS A SECOND SERVICE PROVIDER?**

105 A: If UBTA-UBET's local service customers in the Vernal exchange were to migrate to
106 Bresnan's local service, UBTA-UBET would experience a revenue loss for each such
107 customer. The problem is that the reduction in revenue is **not** mirrored by a concomitant
108 reduction in the cost of providing the service. A corresponding reduction in costs occurs
109 only where costs are tied directly to the units served. Given the geographically large and
110 diverse area which UBTA-UBET serves and the sparse populations in sizeable portions
111 of that service area, the investment in facilities by UBTA-UBET required to provide
112 services as the carrier of last resort, and other factors that are driven by the demographics
113 of UBTA-UBET's service territory, there is a substantially higher cost to provide services
114 on a per customer basis than one would see within the Qwest serving areas and those
115 costs are basically fixed. For example, GVNW has conducted studies on the size of
116 companies, comparing access lines to the number of employees. Within the last couple
117 of years, we have developed some data that that is pertinent to this case. Qwest has an
118 average of 1 employee for approximately every 463 access lines. If we apply that same
119 ratio to UBTA-UBET, the company would hypothetically have around 43 employees.
120 However, UBTA-UBET is, in fact, required to employ substantially more employees in
121 order to provide telecommunication services in the Uintah Basin.

122
123 The incremental cost reduction due to a loss of a customer is minimal in comparison to
124 the revenue loss. Some reductions may be achieved in billing and collection costs but
125 those would be so minuscule due to the mechanization of many of the processes in

126 billing. In fact, the costs increase on a per access line basis when the fixed costs are
127 basically the same and the number of access lines decreases. Just to illustrate, if the
128 company had \$1,000,000 in expenses and the access lines went from 20,000 to 19,000,
129 the cost on a per access line basis would go from \$50 per line to \$52.50 per line.

130 **Q. HAVE YOU DONE ANY CALCULATIONS ON THE POTENTIAL FOR THE**
131 **LOSS OF REVENUE TO UBTA-UBET?**

132 A. I have made some rough calculations using the current penetration that Bresnan has with
133 its current customer base taking cable TV and broadband internet, and I estimate that
134 UBTA-UBET could potentially lose somewhere between \$450,000 to \$550,000 annually
135 in local and state access revenues without any measurable reduction in costs.

136 **Q: HOW WOULD THE LOSS OF REVENUE BE MADE UP?**

137 A: With little reduction in cost, UBTA-UBET, as a rate-of-return regulated
138 telecommunications company, would have substantially the same revenue requirement
139 prior to the introduction of Bresnan as a second provider. The resulting shift in costs for
140 providing services could only be covered through increasing rates or additional state USF
141 support. In essence, all other subscribers in Vernal, the Uintah Basin and the State of
142 Utah would be paying for competition which would benefit but a few. One can readily
143 see that there is no cost savings with a second provider in the Uintah Basin as it would
144 relate to the vast majority of the customers. Clearly, a second provider in the Uintah
145 Basin is not in the public interest.

146 **Q. IN BRESNAN'S APPLICATION AND TESTIMONY REFERENCE IS MADE TO**
147 **AN INTERCONNECTION AGREEMENT BETWEEN BRESNAN AND UBTA-**
148 **UBET; DOES BRESNAN HAVE AN INTERCONNECTION AGREEMENT**
149 **WITH UBTA-UBET?**

150 A. No. If the Commission grants Bresnan a CPCN, it is clear that Bresnan contemplates an
151 interconnection agreement with UBTA-UBET. The problem is that Bresnan's
152 Application indicates that the service which it primarily proposes to provide, Digital
153 Voice, is an IP-enabled service. It appears that Bresnan would only provide services
154 utilizing UBTA-UBET's facilities if it is required to do so. At present, the FCC has not
155 determined whether IP-enabled services are telecommunications services or information
156 services and, as a result, UBTA-UBET does not currently have a direct Section 251
157 interconnection obligation for IP-enabled services. If it is determined that UBTA-UBET
158 has an interconnection obligation under Section 251, then UBTA-UBET will need to
159 enter into negotiations with Bresnan for an interconnection agreement. Many issues
160 would need to be worked out. These issues include the exchange of traffic,
161 compensation, resale of facilities, number portability, etc., that have not been previously
162 addressed in the context of a interconnection agreement between a rural, incumbent local
163 exchange carrier and a second provider in the State of Utah.

164 **Q. DO YOU HAVE ANY OTHER ITEMS THAT YOU WOULD LIKE TO DISCUSS?**

165 A. No.

166 **Q. CAN YOU PLEASE SUMMARIZE YOUR POSITION IN REGARDS TO THE**
167 **BRESNAN APPLICATION FOR CERTIFICATION IN THE VERNAL**
168 **EXCHANGE?**

169 A. Yes. First, it is important that the Commission recognize that the requirements for
170 obtaining certification in the service area of an independent telephone company like
171 UBTA-UBET in a rural area are different from those in the Qwest areas, and that it
172 should give careful attention to these additional requirements in the public interest test
173 before granting a CPCN to Bresnan. In the public interest, the economic benefits of a
174 second provider of telephone service in a rural area of the state may not be there, as an
175 additional cost is shifted to the other subscribers in the Uintah Basin or to customers
176 generally throughout the state through the state USF. Giving due consideration to all of
177 the factors, it is my opinion that a grant of the CPCN that Bresnan seeks for the Vernal
178 exchange is not in the public interest.

179 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

180 A. Yes, it does.