

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

The Application of Bresnan Broadband of Utah,)	
LLC for a Certificate of Public Convenience)	DOCKET NO. 07-2476-01
and Necessity to Operate as a Competitive)	DPU Exhibit 2.0
Local Exchange Carrier in Utah)	
)	Direct Testimony of
)	Casey J. Coleman
)	

DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE

July 27, 2007

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II. SUMMARY

18 **Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR**
19 **TESTIMONY.**

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

24 On April 17, 2007 Bresnan filed a motion to bifurcate the proceedings into two separate
25 dockets where the CPCN for Vernal would be considered separate from the CPCN for
26 Qwest Territory. The Commission issued an order June 14, 2007 bifurcating the CPCN
27 Application.

28 My Testimony will look at existing standards established by the Commission for granting
29 a CPCN. Specifically it will look at the Public Interest standard that must be satisfied for
30 the Commission to grant a CPCN to petitioning companies. An analysis of the Universal
31 Public Telecommunications Service Support Fund (“USF, State Fund”) is provided to
32 quantify the significance to the Utah Consumer of granting a CPCN.

33

III. CRITERIA FOR GRANTING A CPCN

34 **Q. WHAT CRITERIA DOES THE COMMISSION CONSIDER IN GRANTING A**
35 **CPCN TO A COMPETITIVE TELECOMMUNICATIONS CORPORATION?**

36 A. In Utah Code Annotated § 54-8b-2.1 the Utah Legislature provided a dual test that the
37 Commission must consider when considering a CPCN application. Those items are:

38 (a) the applicant has sufficient technical, financial, and managerial resources and
39 abilities to provide the public telecommunications services applied for; and

40 (b) the issuance of the certificate to the applicant is in the public interest.

41 **Q. HAS BRESNAN DEMONSTRATED SUFFICIENT TECHNICAL, FINANCIAL,**
42 **AND MANAGERIAL RESOURCES TO PROVIDE TELECOMMUNICATION**
43 **SERVICES IN THE VERNAL EXCHANGE?**

44 A. The Division has reviewed the application of Bresnan that was originally submitted
45 February 5, 2007. In addition to the information provided the Division has evaluated
46 materials provided by Bresnan in a technical conference on June 1, 2007. The Division
47 believes that Bresnan has shown sufficient technical, financial, and managerial resources
48 and abilities to provide the public telecommunications services applied for. Specifically
49 Bresnan indicated that they are currently serving over 82,000 telephone customers in
50 Montana, Wyoming and Colorado. The areas they are serving would be communities
51 similar to those in this Docket and the managerial team assembled by Bresnan appears to
52 have the ability to run a telecommunications company in those areas. Therefore the
53 Division believes they would be able to offer the similar expertise and experience to
54 customers in Vernal.

55 **Q. IS ANY OF THE INTERVENING PARTIES QUESTIONING THE ABILITY OF**
56 **BRESNAN TO OFFER TELECOMMUNICATION SERVICES?**

57 A. No. In fact Bresnan's capabilities were not discussed or questioned by any of the witness
58 that filed testimony. In my opinion this silence could indicate parties' acknowledgement
59 that Bresnan has demonstrated sufficient resources as required by UCA § 54-8.b-2.1(a).

60 **Q. SO THE REMAINING QUESTION FOR THE COMMISSION IS WHETHER**
61 **BRESNAN'S APPLICATION PASSES THE PUBLIC INTEREST STANDARD?**

62 A. Yes.

63 **Q. HAS THE COMMISSION EVER HAD ANY PROCEEDINGS TO ESTABLISH**
64 **THE PUBLIC INTEREST STANDARD IN A CPCN APPLICATION?**

65 A. No. To date the Commission has granted CPCNs to providers where it has been an
66 uncontested fact that the CPCN would be in the public interest. Generally the CPCNs
67 granted by the Commission have given competitive providers the authority to “provide
68 public telecommunications services within the State of Utah, excluding those local
69 exchanges of less than 5,000 access lines of incumbent telephone corporations with fewer
70 than 30,000 access lines in the state.”

71 **Q. DOES THE VERNAL EXCHANGE HAVE MORE THEN 5000 ACCESS LINES?**

72 A. Yes.

73 **Q. IF THE VERNAL EXCHANGE HAS MORE THEN 5000 ACCESS LINES WHY IS**
74 **THE BRESNAN APPLICATION DIFFERENT FROM ANY OTHER**
75 **APPLICATION? AT FIRST GLANCE IT WOULD SEEM THAT THE VERNAL**
76 **EXCHANGE SHOULD BE TREATED THE SAME AS ALL THE OTHER**
77 **SIMILAR EXCHANGES AND APPLICATIONS.**

78 A. Bresnan’s application is different from many of the other applications for a CPCN
79 submitted to and granted by the Commission because they are asking to compete in an
80 exchange where the Incumbent Local Exchange Carrier (ILEC) has less then 30,000 access
81 lines and the ILEC is rate of return regulated and receives state USF support. UBTA, the
82 ILEC serving customers in Vernal, as well as URTA, the organization representing rural

83

84 carriers in Utah, petitioned the Commission to intervene in Bresnan's CPCN application,
85 and are challenging the public interest standard.

86 **Q. BECAUSE THIS IS THE FIRST APPLICATION THAT HAS HAD AN ILEC**
87 **INTERVENE DOES THAT MEAN THE COMMISSION IS CHARTING NEW**
88 **GROUND IN ESTABLISHING A PUBLIC INTEREST STANDARD?**

89 A. Yes. To date the Commission has never made a determination regarding public interest in
90 a contested CPCN application.

91 **IV. THE PUBLIC INTEREST STANDARD**

92 **Q. HAS THE COMMISSION EVER DETERMINED A PUBLIC INTEREST**
93 **STANDARD IN A DIFFERENT PROCEEDING?**

94 A. Yes. Docket No. 98-2216-01, In the Matter of the Petition of WWC Holdings Co., Inc.
95 For Designation as an Eligible Telecommunications Carrier, the Commission provided
96 direction regarding what they determined to be a standard for meeting the public interest
97 threshold.

98 **Q. THE UTAH SUPREME COURT ALSO RULED IN THE WWC PROCEEDING**
99 **SUPPORTING A PUBLIC INTEREST STANDARD FOR GRANTING AN ETC?**

100 A. Yes.

101 **Q. DESCRIBE YOUR UNDERSTANDING OF THE PUBLIC INTEREST STANDARD**
102 **AS DEVELOPED BY THE COMMISSION AND AFFIRMED BY THE UTAH**
103 **SUPREME COURT IN THE WESTERN WIRELESS CASE?**

104

105 A. Although I am not an attorney, in my opinion the decision by the Commission and
106 affirmed by the Utah Supreme Court seems to establish a test where “increasing the
107 burdens on the state fund was not in the public interest in the absence of corresponding
108 public benefits”. The order by the Commission and affirmed by the Utah Supreme Court,
109 allowed the Commission to look at the effect of allowing an additional ETC to compete in
110 the State of Utah and the effects competition would have on the USF. The impact to the
111 State Fund could be one element used in a public interest test.

112 **Q. DOES THE DIVISION FEEL THE PUBLIC INTEREST STANDARD**
113 **DEVELOPED IN THE WESTERN WIRELESS CASE IS OF MUCH USE IN THIS**
114 **PROCEEDING?**

115 A. No. Western Wireless was seeking ETC status; here, Bresnan is applying to be granted a
116 CPCN. Additionally, when one reviews the reasons the Commission denied the ETC
117 application it is apparent that the facts of both cases are quite different. The brief filed by
118 the Commission in the Western Wireless case states that “Western Wireless presented a
119 limited case before the PSC. There was little substantive, specific evidence actually
120 presented in support of the [Western Wireless] application.”¹ In that brief the Commission
121 states six specific reasons they felt the case did not provide specific and substantive
122 evidence. Those reasons were:²

- 123 1. Evidence of the “benefits” of Western Wireless’ ETC service
- 124 2. Lack of specific evidence on Western Wireless’ service
- 125 3. Additional service in rural telephone companies’ service area
- 126 4. An unknown local calling area
- 127 5. A nondescript “mobility”
- 128 6. Overwhelming detriments compared to benefits

¹ Brief of Public Service Commission to Utah Supreme Court pgs 9-10

² Brief of Public Service Commission to Utah Supreme Court pgs 11-18

129 In reviewing Bresnan's application, the Division does not see the same "holes" that
130 Western Wireless had in its ETC application. Bresnan has been very specific about what
131 customers they want to serve, at what price they will serve those customers, what areas of
132 the Vernal Exchange they will serve, and the technological specifications of their digital
133 voice product. Because of all of the stated reasons above, the Division feels it is of little
134 use to apply the identical "public interest" standard for a CPCN application as was used
135 years ago for an ETC application. Instead the public interest standard should be defined
136 broader for this proceeding.

137 **Q. WHERE WOULD THE COMMISSION BE ABLE TO FIND DIRECTION FOR A**
138 **PUBLIC INTEREST STANDARD? WESTERN WIRELESS CERTAINLY IS ONE,**
139 **BUT THERE MUST BE OTHERS AS WELL?**

140 A. In the Western Wireless case the definition given for granting an ETC was an analysis of
141 the public impacts of granting the ETC against any benefits achieved from additional
142 competition. Other areas where a public interest could be implied would be any past
143 CPCNs issued by the Commission, the 1996 Telecommunications Act, Commission rules
144 on competitive entry and the clear legislative direction given to the Commission in UCA §
145 54-8b-1.1(2) facilitate access to high quality, affordable public telecommunications
146 services to all residents and businesses in the state. Looking at all of those items and more
147 would help the Commission establish the appropriate standard for this CPCN application.

148 **Q. IF SOMEONE DOES NOT AGREE WITH YOUR PREMISE THAT THE "PUBLIC**
149 **INTEREST" STANDARD IN THE WESTERN WIRELESS DECISION DOES NOT**
150 **PROVIDE MUCH DIRECTION, DOES THE SUPREME COURT DECISION**
151 **MEAN THERE CAN NEVER BE COMPETITION BECAUSE IT MAY IMPACT**

152

153 **THE STATE FUND AND AN INCREASE IN THE STATE FUND COULD NEVER**
154 **BE IN THE PUBLIC INTEREST?**

155 A. No. The decision by the Supreme Court specifically states “[t]he Order does not,
156 however, say that because of [not allowing Western Wireless as an ETC] the PSC will
157 never allow competition in rural areas by refusing to designate additional rural ETCs.
158 Rather, the Order says that in the *absence* of corresponding public benefits, increasing the
159 burdens on the State Fund is not in the public interest... Thus, the PSC's Order is not
160 against competition per se, but, rather, merely recognizes that in *some instances*
161 competition in *rural areas* by multiple ETCs receiving state universal service support may
162 not be in the public interest.

163 **Q. SO IN YOUR OPINION AN INCREASE OF THE STATE FUND IS NOT ENOUGH**
164 **TO DISPUTE THE PUBLIC INTEREST REQUIREMENT?**

165 A. I think it depends on the specific facts of each case, but generally no. As the Commission’s
166 order and the Supreme Court affirmed, the public interest standard has two parts, the
167 negative impacts to the public weighed against the positive results of competition. I
168 believe the public interest question is more than just a dollar increase to the State Fund. If
169 the public interest question was merely one of a dollar increase, it would be quite simple
170 for anyone to understand the threshold. All anyone would have to ask is if the State Fund
171 was going to increase by one dollar; if the answer was affirmative, then the Public Interest
172 would be denied. I think everyone in this proceeding would agree that the public interest
173 standard is much more complex than the test I just stated above. The test includes looking
174 at the positive impacts that competition could have, weighed against the negative impacts,
175 or in other words the magnitude of the impact to the USF needs to be considered. When
176 looking at a CPCN application the Commission should look at all factors both positive and

177 negative that will result from granting that CPCN. If the Commission believes that the
178 State Fund will be impacted at a greater degree than the perceived benefits of competition
179 that will develop as a result of granting the CPCN, then the appropriate result is denying
180 the CPCN. Conversely, if the impact to the State Fund is minimal, compared to the
181 perceived benefits of competition that will develop as a result of granting the CPCN, then
182 the appropriate result is to approve the CPCN application. In essence the Commission, in
183 this proceeding, is deciding at what level is the impact to the State Fund sufficient enough
184 to deny allowing a competitive telecommunications company into an area of the State.

185 **Q. ACCORDING TO THE ANALYSIS DONE BY THE DIVISION DO YOU BELIEVE**
186 **THE COMMISSION SHOULD GRANT THE CPCN REQUEST OF BRESNAN?**

187 A. Yes. As will be shown later in my testimony the impact to the State Fund will be minimal
188 compared to the potential benefits that consumers will receive by allowing competition
189 within the Vernal exchange. The Division also realizes that the Commission has a
190 legislative mandate to “encourage the development of competition as a means of
191 providing wider customer choices for public telecommunications services throughout the
192 state.”³ Although there might be some impact to the State Fund, the Division believes
193 that those impacts will be minimal when compared to the advantages of allowing
194 competition. Therefore granting a CPCN to Bresnan will meet the stated policy of
195 furthering competition and will be in the public interest.

196 **Q. IS THERE OTHER WAYS THAT GRANTING THIS PETITION WOULD BE IN**
197 **THE PUBLIC INTEREST?**

198

³ 54-8b1.1(2)

199 A. There is a very unique and interesting scenario forming with this application. The
200 Commission is going to have an opportunity to determine just how “significantly”
201 consumers in Vernal want another telecommunications provider. An established economic
202 principle is that consumers tend to “vote with their dollars” for what they value. If they
203 place a high premium on choice, added services, or increased innovation then rational
204 consumers would opt to choose the company that they feel is offering those services, given
205 that the market is competitive. In this scenario the Commission has the potential to
206 determine just how much consumers truly wanted a competitive choice in Vernal. As the
207 Division’s analysis shows later, the State Fund could be impacted if 25%, 40% or even
208 60% of customers choose to go with Bresnan as a competitor. The question one could ask
209 if large amounts of UBTA-UBET customers choose to go with a competitor is “why”. I
210 would argue the answer is that customers are “voting” that they truly wanted competition
211 and choices with their telecommunications provider. The interesting and unique scenario is
212 that if UBTA-UBET did not lose one single customer the impact to the fund because of
213 competition would be zero. Therefore any increase to the fund is a strong statement by
214 citizens of Vernal that they want choices. Granting this CPCN will allow another choice
215 for Vernal residents for telecommunications services while the impact to the State Fund
216 will show the Commission how badly competition was wanted in that exchange.

217 **V. ANALYSIS OF THE STATE FUND**

218 **Q. MR. MEREDITH REPRESENTING THE URTA DEVELOPED AN ANALYSIS OF**
219 **THE IMPACT TO THE STATE FUND. WHAT ARE YOUR IMPRESSIONS?**

220 A. Although, as will be shown later, Mr. Meredith and I did an analysis using different data,
221 our attempts to determine the magnitude of the impact to the State Fund gave similar
222 results. It can be tenuous and difficult to try to determine the impacts of a decision when

223 the future is ambiguous at best, and I appreciate the efforts to try and quantify the future
224 developed by Mr. Meredith. There is one criticism of his assumptions which is the
225 “conservative” up sell rate he used of 60%. If Bresnan were able to win 60% of their
226 current customers within the first year of service of offering this new service, that would be
227 an amazing amount of growth.

228 **Q. SO YOU FEEL THAT 60% COULD BE A HIGH ESTIMATE? WHAT WOULD**
229 **YOU SAY IS MORE ACCURATE?**

230 A. I don’t know, and I doubt anyone else does. But UBTA-UBET, Bresnan, URTA, and any
231 other party would be faced with the same challenge. (In their data responses Bresnan
232 indicated that no such studies had been done by their company. Also, no studies were
233 provided by URTA or UBTA-UBET showing what a reasonable “take rate” would be.)
234 Determining what would be a take rate for a new competitor in an area that had been
235 served primarily by one monopoly provider would be a “best guess” or “gut feeling”
236 estimate. Recognizing this difficulty, in my analysis I created different levels of “impact”.
237 I analyzed the potential impact to the State fund at a take rate of 10%, 25%, 50%, 60% and
238 100%. The analysis was also done using the number of customers of Bresnan as well as
239 the number of customers of UBTA-UBET in the Vernal Exchange.

240 **Q. EARLIER YOU MENTIONED THAT MR. MEREDITH ANALYZED THE**
241 **INFORMATION DIFFERENTLY FROM YOUR ANALYSIS. DESCRIBE THE**
242 **DIFFERENCES.**

243 A. Mr. Meredith used as his basis for analysis average monthly revenue per line. Like Mr.
244 Meredith, the Division looked at what revenues would be lost by UBTA-UBET when a
245 customer switched to Bresnan. Our method was to look at what revenues UBTA-UBET
246 currently gets for each customer. To determine an amount per customer, the Division

247 added the Affordable Base Rate, Carrier Common Line and Vernal EAS rate to get a
248 residential rate of \$24.80 and a business rate of \$34.30.⁴

249 **Q. USING TAKE RATES OF 10% THROUGH 100% AND THE \$24.80 AND \$34.30,**
250 **WHAT IS THE IMPACT TO THE STATE FUND?**

251 A. As could be expected with such a wide range of take rates, the impact to the fund goes
252 from negligible to substantial or in the sense of dollar figures approximately \$61,000 up to
253 \$3.4M annually.⁵

254 **Q. SO WHY DID YOU ANALYZE BOTH BRESNAN'S CUSTOMERS AND UBTA-**
255 **UBET CUSTOMERS WITH A RANGE OF TAKE RATES? ALSO EXPLAIN THE**
256 **IMPLICATIONS OF LOOKING AT BOTH.**

257 A. As stated before, it is difficult to pin down what the exact take rate is going to be if Bresnan
258 is granted a CPCN. Therefore I thought it would be helpful to illustrate the potential
259 impacts of a variety of scenarios. In the first calculations I used Bresnan's customer count
260 as the premise of my impact analysis. I wanted to see what the impact to the fund could be
261 if 10%, 25%, 50%, 60%, or 100% of Bresnan's existing cable customers signed up for
262 phone service. Additionally, because it appears that Bresnan has made an emphasis at this
263 time on primarily "residential" customers instead of business customers, I thought it would
264 be advantageous to look at both classes of customers separately. The same process was
265 done with UBTA-UBET customers, the only difference being that I looked at the number
266 of customers currently being served in the Vernal Exchange by UBTA-UBET.

⁴ See attachment 1 for a detailed breakdown of the rates.

⁵ See attachment 2 for the spreadsheet showing all the calculations.

267 What the analysis shows is that if Bresnan is able to get every one of their existing cable
268 customers to sign up for phone service the impact on the State Fund could be
269 approximately \$600K annually. Conversely, if Bresnan were successful in getting 10% of
270 their customers to sign up for phone service, the impact to the State Fund drops to
271 approximately \$61,000 annually.

272 Looking at the impact to the State Fund from UBTA-UBET line loss, the results are more
273 pronounced. For example if UBTA-UBET lost ten percent of its customers in the Vernal
274 exchange, the impact to the State Fund could be approximately \$344K annually, and could
275 increase to \$3.4M annually if UBTA-UBET lost every single residential and business
276 customer in the Vernal exchange.

277 Finally, for UBTA-UBET to lose 25% of their customers, Bresnan would have to get every
278 existing residential and business customer to sign up for phone service. Therefore, even
279 though a line loss of 50%, 60% and 100% is provided the Division would find it highly
280 speculative to try and imply that those numbers are even in the ball park for a range of
281 impact.

282 **Q. SO WITH YOUR ANALYSIS WHAT IS YOUR “BEST GUESS” OF THE IMPACT**
283 **TO THE STATE FUND IF BRESNAN IS GRANTED A CPCN?**

284 A. As I stated before I think a 60% take rate for Bresnan seems aggressive. I think a more
285 realistic take rate of 25-40% would be plausible. Using those figures my “gut feeling” is
286 an impact to the State Fund of approximately \$125,000 to \$275,000 annually.

287 **Q. AN IMPACT TO THE STATE FUND OF \$125,000 TO \$275,000 SEEMS LIKE A**
288 **SIGNIFICANT INCREASE. WOULD YOU AGREE WITH THAT IMPRESSION?**

289

290 A. No. Again the answer is that it is relative. For one or two consumers \$125,000 to
291 \$275,000 might seem like an exorbitant amount, but in looking at the public interest we
292 have to look at the entire State Fund. An increase of \$275,000 would increase the fund by
293 approximately 2.98% looking at the total amount of money collected in 2006. If you look
294 at the \$275,000 on the impact to each consumer in the State, and therefore the contributors
295 to the fund, the impact dwindles even more. The Division estimates the total number of
296 consumers using phone service in the State of Utah around 2.38M. For the fund to increase
297 by \$275,000 annually, everything staying constant, consumers in Utah would have to
298 contribute \$0.012 annually or a little over one cent a year. Using the proposed increase
299 suggested by Mr. Meredith if Bresnan were granted a CPCN, individual consumers in the
300 State of Utah would be required to pay less than a quarter each year. In testimony filed by
301 Ms. Scholl for the Division, she explains as a result of a variety of factors happening in the
302 telecommunications market, an increase in the amount of money paid to UBTA-UBET
303 from the State Fund most likely would not require an increase to consumers in the State of
304 Utah. The above illustration is to show in the Division's analysis what the "worst" case
305 scenario would be to Utah consumers.

306 **Q. THE IMPACT YOU ARE DISCUSSING IS DEALING JUST WITH VERNAL AND**
307 **UBTA-UBET. MR. MEREDITH IN HIS TESTIMONY DISCUSSES A TOTAL**
308 **IMPACT TO THE USE IF BRESNAN IS GRANTED A CPCN THAT COULD BE**
309 **APPLIED TO ALL RURAL CARRIERS. DO YOU THINK IT IS APPROPRIATE**
310 **IN THIS DOCKET TO LOOK BEYOND THE IMPACT TO UBTA-UBET AND**
311 **INCREASE THE SCOPE TO INCLUDE ALL RURAL COMPANIES IN UTAH?**

312 A. Although the Commission must consider the impact of the State Fund in its entirety, I think
313 it is a precarious path to start down to try and apply the facts of this case to all rural
314 carriers. There are a variety of reasons why that approach does not make sense. First, Mr.

315 Meredith discusses the desire of other cable phone providers wanting to serve in all URTA
316 areas. Although this might be true, there is no data to support this potential claim. It seems
317 unfair to deny a company the opportunity to compete in a specific geographic region
318 because there “may” be companies wanting to serve in other areas. Second, the Vernal
319 exchange is vastly different than many of the other rural exchanges in Utah because it is
320 above 5000 access lines. Because of this more densely populated nature of the Vernal
321 exchange the likelihood of a competitor wanting to serve this area of the state is greater
322 than other exchanges in Utah. Would a cable provider immediately want to serve an
323 exchange with 1000 lines, or even 100 lines, just because Bresnan was granted a CPCN to
324 serve in Vernal? I don’t think the answer to that question is a definite yes. Third, The
325 Vernal exchange is different from most of the other rural exchanges in Utah because it does
326 not get any federal USF support. In other rural exchanges of the state, it is plausible that as
327 the ILEC lost lines, the cost to serve customers would increase. That increase per line
328 would push those companies above the average benchmark used to determine the Federal
329 USF support. The result would be an additional portion of lost revenues from competition
330 being covered by the Federal USF fund and not having to be covered by the State Fund.
331 Finally, looking at each company that draws from the State Fund, UBTA-UBET draws
332 significantly more than other companies. Because it is a major recipient from the USF,
333 using its percentages could skew the numbers.

334 **VI. ADDITIONAL CONCERNS IN GRANTING A CPCN**

335 **Q. WERE THERE ANY ADDITIONAL CONCERNS TO GRANTING A CPCN TO**
336 **BRESNAN DISCUSSED BY UBTA-UBET OR URTA?**

337 **A.** Besides the impact to the State Fund, other concerns mentioned were:

338 - the welfare of the telecommunications subscribers in the Vernal exchange as well
339 as the Uintah Basin and the State of Utah,

- 340 - the impact on the development of a telecommunications infrastructure that provides
341 for the continued availability of technologically-advanced services for subscribers
342 in **all** of the areas served by UBTA-UBET in the Vernal exchange as well as the
343 Uintah Basin generally.⁶
- 344 - Rate increases to UBTA-UBET customers
- 345 - Diverted revenues causing an inability to cover costs of plant upgrades in the
346 Vernal Exchange
- 347 - Bresnan only serving a “select” population of the Vernal exchange.

348 **Q. WHICH OF THE CONCERNS ABOVE ARE VALID ITEMS THE COMMISSION**
349 **SHOULD CONSIDER?**

350 A. Every point mentioned by the company and URTA are valid items the Commission should
351 consider. The Division believes, however, that in this case, most of those concerns do not
352 apply. Because the State of Utah has the USF, and UBTA-UBET is rate-of-return
353 regulated, any revenue shortfall will be covered by the State Fund. That means that
354 UBTA-UBET customers inside Vernal or even in the other exchanges would not see an
355 increase in their rates above the Affordable Base Rate without the approval of the
356 Commission. The Division recognizes that many advance features are now available to
357 consumers in Vernal that were not provided before the acquisition by UBTA-UBET, but
358 most of those upgrades are already included in the rate base that UBTA-UBET used to
359 establish the revenue requirement in their last rate case. Going forward, customers in
360 Vernal should have access to a telecommunications infrastructure that provides for the
361 continued availability of technologically-advanced services for subscribers because of
362 those upgrades. UBTA-UBET also makes a point that services that are technologically
363 advanced needs to be provided for **all** consumers within the Uinta Basin, not just in the
364 Vernal exchange. In my opinion this would be an argument for allowing competition
365 within the Vernal exchange. Because UBTA-UBET has tried over the last year to unify the

⁶ See Direct Testimony of Mr. Bruce Todd pg 6.

366 different communities, if consumers were offered a product by Bresnan that was
367 technologically advanced, generally in a competitive environment UBTA-UBET would
368 respond by offering at least the same advances. Even though Bresnan might not be able to
369 offer those services to “every” UBTA-UBET customer, even offering it to some would
370 create an environment where UBTA-UBET responds by offering enhanced services to all.

371 **VII. POSITIVE BENEFITS OF GRANTING THE CPCN**

372 **Q. THE PUBLIC INTEREST STANDARD AS YOU DESCRIBED EARLIER**
373 **INCLUDES ANY POSITIVE BENEFITS CONSUMERS WILL RECEIVE FROM**
374 **ADDING ANOTHER COMPETITOR. WHAT POSITIVE BENEFITS WILL**
375 **CONSUMERS IN VERNAL RECEIVE BY BRESNAN OFFERING SERVICE?**

376 A. The testimonies filed by Mr. Meredith, and Mr. Hendershot, say that there is not one
377 benefit to allowing another competitor into the Vernal exchange. Mr. Meredith stated in
378 his testimony that the State Fund would increase without “corresponding public benefits”.⁷
379 Mr. Hendershot testified that adding a second provider of telecommunication service in the
380 Vernal Exchange would not benefit the subscribers in the Uintah Basin.⁸

381 **Q. DO YOU AGREE WITH THE PREMISE THAT THERE WILL BE NO POSITIVE**
382 **BENEFITS THAT CONSUMERS WILL RECEIVE WITH THE ADDITION OF A**
383 **SECOND TELECOMMUNICATIONS PROVIDER IN THE VERNAL**
384 **EXCHANGE?**

385

⁷ See Direct Testimony of Mr. Douglas Meredith pg 8 line 171.

⁸ See Direct Testimony of Mr. Raymond A. Hendershot pg 6.

386 A. No. I think that there will be positives that consumers will realize with the introduction of
387 a second telecommunications provider. Bresnan has provided information that shows they
388 will be offering a digital voice product to consumers. The Division is not aware of a similar
389 product or service offered by UBTA-UBET that includes all of the same features and
390 services for one packaged price. Some of the features listed by Bresnan include:

- 391 - Bundled Package of Local Service
- 392 - Calling Features of Unlimited Local and Long Distance Calling
- 393 - Residential and Commercial High Speed data
- 394 - Emergency Services e911
- 395 - Local, Long Distance and International Calling
- 396 - Call Waiting / Cancel
- 397 - Caller ID / Blocking
- 398 - 3-way Calling
- 399 - Voicemail
- 400 - Anonymous Call Rejection
- 401 - Automatic Recall (*69)
- 402 - Call Forwarding All
- 403 - Call Forwarding No Answer
- 404 - Call Forwarding Busy
- 405 - Distinctive Ringing
- 406 - Do Not Disturb
- 407 - Selective Call Rejection
- 408 - Speed Dialing
- 409 - Web Tools and support

410 **Q. BESIDES THE LIST OF SERVICES THAT BRESNAN OFFERS ARE THERE**
411 **OTHER BENEFITS TO COMPETITION?**

412 A. I would suggest that there are at least four other ways that customers in Vernal could see
413 benefits to Bresnan entering the market. Those benefits would be increased choices,
414 reduced prices for services, increased service quality and technological innovation being
415 implemented at an increased pace.

416

417 **INCREASED CHOICES**

418 Bresnan has indicated that it will offer a local service that would be priced at \$39.99, or
419 close to that amount. Services that customers in Vernal will get included in the digital
420 voice product will be unlimited local and long distance along with a suite of additional
421 features. The Division is not aware of a similar service being offered by UBTA-UBET.
422 This packaging of unlimited long distance with unlimited local calling would be a benefit
423 to consumers. Recently the Division was involved in a proceeding with UBTA-UBET
424 where the benefits of extending the local calling area to include all the communities within
425 the Uintah Basin was discussed. Unifying the community so that consumers would be able
426 to call anywhere in the valley without toll charges was seen as a benefit. If it was seen as a
427 benefit to many citizens of the valley for extending the local area, which the customer
428 survey conducted by UBTA-UBET showed, then it seems logical to conclude that there are
429 others individuals in Vernal who would see the ability to call anywhere in Canada or the
430 United States without paying toll charges as a benefit.

431 **REDUCED COSTS**

432 Although the \$39.99 being charged by Bresnan is not lower in price to a plain old
433 telephone service (“POTS”) there are consumers who again could see price benefits to
434 having a competitor serve in Vernal. I estimate the cost to any consumer in Vernal for
435 POTS phone to be around \$30.00. Using that as my base line, any consumer who was
436 paying over \$10.00 in long distance charges could see a reduction in costs for their phone
437 service by choosing Bresnan’s service. The same argument would apply to customers that
438 are using any enhanced features, such as voice mail, call forwarding etc. If a consumer
439 spent more than \$10.00 a month for those services, then Bresnan’s service could be a
440 viable economic option.

441 **INCREASED SERVICE QUALITY**

442 Generally, when another competitor enters a market, service quality by the existing
443 company improves. This increase happens because customers now have another option to
444 consider when evaluating their telecommunications needs. If the incumbent's service is
445 perceived by consumers as inadequate, or if down times for service is lengthy, when
446 competition exists those consumers will choose a different company. Additionally, if
447 customers think the responsiveness of the incumbent to install new facilities or reconnect
448 returning customers, or a variety of other service quality issues is poor they will migrate to
449 a competitor. Knowing that customers have choices will force every company competing
450 in the market to serve the customers needs with a high level of proficiency.

451 **INCREASE IN TECHNOLOGICAL INNOVATION**

452 A generally accepted economic and business principle is that competition will spur new
453 innovation and technological advances. As mentioned earlier, allowing Bresnan the ability
454 to serve customers in Vernal will make it more likely that all consumers in the Uintah
455 Basin receive high quality phone service that will meet their needs, whether that is
456 technology, or service quality, or something else. This will happen because UBTA-UBET
457 would not be able to offer services just to customers in Vernal to "compete" against a
458 competitor in that area. As was discussed by Mr. Todd, UBTA-UBET has spent significant
459 resources to create a unified valley. Because of those efforts, I do not see UBTA-UBET
460 not offering every service to a customer in Tabonia that is offered in Vernal. With that
461 premise, we can hypothesize that any technological innovations Bresnan offers, UBTA-
462 UBET would be required to offer the same service to compete. Given that UBTA-UBET is
463 faced with a competitor who offers their customers "technological innovations", UBTA-
464 UBET can respond by offering a similar service to all of its customers, only Vernal

465 customers, or none of their current customers. My belief is that UBTA-UBET would
466 choose to either offer the technological advance to all of their customers or none.

467 The principle holds true if UBTA-UBET were offering a technological innovation. Bresnan
468 would most likely respond by offering the same innovation to match the competition. The
469 reality would be that both companies would have to respond to any innovations the other
470 company introduced, therefore providing an increased likelihood of technological advances
471 being provided earlier to customers in the Uintah Basin.

472 **VIII. CONCLUSION**

473 **Q. WHAT IS THE DIVISIONS RECOMMENDATION WITH THIS PETITION?**

474 A. The Division recommends that Bresnan should be granted a CPCN to serve in the Vernal
475 exchange. The Division's analysis has shown that customers in Vernal will benefit from
476 having a competitor offering telecommunications services. Some of those benefits include
477 reduced costs, better service quality, and increased choice. These benefits tip the "public
478 interest" scale in favor of granting the CPCN when the maximum perceived negative
479 would be a projected cost to individual consumers throughout the State of Utah of \$0.012
480 annually.

481 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

482 A. Yes it does.

483