

Brett N. Anderson  
Charles M. Bennett  
Kristy L. Bertelsen  
Michael D. Blackburn  
David J. Castleton  
Thomas Christensen, Jr.  
Jane A. Clark  
Mark D. Dean  
Michael E. Dyer  
Sharon J. Eblen  
Bret A. Gardner  
Bryce D. Panzer  
Kira M. Slawson  
Stanley K. Stoll  
Thomas C. Sturdy

**BLACKBURN & STOLL, LC**  
Attorneys at Law  
257 East 200 South, Suite 800  
Salt Lake City, UT  
84111-2142

Telephone (801) 521-7900  
Fax (801) 521-7965

**Kira M. Slawson**  
Direct Fax (801) 578-3579  
kslawson@blackburn-stoll.com

May 24, 2018

Public Service Commission of Utah  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, Utah 84111

*Re: In the Matter of Bresnan Broadband of Utah, LLC to Resolve Dispute Over Interconnection of Essential Facilities and for Arbitration to Resolve Issues Relating to an Interconnection Agreement with UBTA-UBET Communications, Inc.*

*Docket No. 08-2476-02*

To the Commission:

It is our understanding that on or about November 10, 2008, the Utah Public Service Commission will issue a ruling on UBTA-UBET Communication, Inc.'s Motion to Dismiss Bresnan Broadband of Utah, LLC's Petition to Resolve Dispute Over Interconnection of Essential Facilities and for Arbitration to Resolve Issues Relating to an Interconnection Agreement.

UBTA-UBET Communications, Inc. ("UBTA-UBET") is concerned that in the event that that Commission denies UBTA-UBET's Motion to Dismiss, the Commission will, in effect, be granting Bresnan's Request for Arbitration under 47 U.S.C. § 252(b)(1). As you are aware, however, pursuant to 47 U.S.C. § 251(f)(1)(A), UBTA-UBET, as a rural telephone company, is exempt from the obligations of 47 U.S.C. § 251(c) until such time as this Commission determines that Bresnan's Request for Interconnection with UBTA-UBET is not unduly economically burdensome on UBTA-UBET, is technically feasible, and is consistent with Section 254 of Title 47 of the Telecommunications Act. This exemption removes, *inter alia*, the requirement to negotiate in accordance with Section § 252 of the Act, under which this compulsory arbitration is conducted. Under 47 U.S.C. §251(f)(1)(B), the Commission is required to conduct an inquiry for the purpose of determining whether to terminate the exemption under 47 U.S.C. §251 (f)(1)(A).

The determination by the Commission as to whether an obligation to interconnect with Bresnan is unduly economically burdensome, technically feasible and consistent with 47 U.S.C. §254 is based on standards substantially different than the standards which were employed by the Commission in determining whether a CPCN would be granted to Bresnan under §54-8b-2.1(2)(a). Therefore, the Commission's determination that the rural exemption be terminated must necessarily be based on evidence presented during the course of a specific and unique rural exemption proceeding.

On October 27, 2008, a Scheduling Conference was held at which time Administrative Law Judge issued a Scheduling Order that will govern the proceeding to determine if Bresnan is a telecommunications carrier under the ACT and for arbitration of an interconnection agreement in the event that UBTA-UBET's Motion to Dismiss is not granted. However, if UBTA-UBET's Motion to Dismiss is denied, this Commission must initially determine whether it will terminate UBTA-UBET's 47 U.S.C. § 252(f)(1)(A) rural exemption before proceeding to arbitrate an interconnection agreement. In such case, the Commission should suspend the current arbitration schedule in order to complete its statutorily required inquiry and determination of the rural exemption.

Sincerely,

BLACKBURN & STOLL, LC

Kira M. Slawson

cc: via email to the following:  
Douglas Meredith  
Steve Mecham  
Paul Proctor  
Michael Ginsberg  
Thorvald Nelson  
Jerry Lambert  
Bill Duncan  
Casey Coleman  
Eric Orton