

November 10, 2008

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:

On November 4, 2008, UBTA-UBET Communications, Inc. (“UBTA-UBET”), through its counsel, sent a letter to the Utah Public Service Commission regarding the above-captioned docket. In that letter, UBTA-UBET asked the Commission to suspend the current arbitration schedule in the event the Commission denies UBTA-UBET’s Motion to Dismiss. UBTA-UBET requests that the schedule be suspended in order to complete an inquiry into whether Bresnan Broadband of Utah, LLC’s (“Bresnan”) request for direct interconnection is prohibited by the rural exemption codified at 47 U.S.C. § 252(f)(1)(A).

As an initial matter, Bresnan is disappointed that UBTA-UBET has raised this issue in this manner. UBTA-UBET had an opportunity to raise this issue in its Intervention and Motion to Dismiss and did not. UBTA-UBET had an opportunity to raise this issue in the Scheduling Conference held October 27, 2008 and did not. UBTA-UBET had a further opportunity to raise this issue in the correspondence between the parties following that Scheduling Conference wherein UBTA-UBET went back on their agreement in the Scheduling Conference and asked for, and received, an additional delay in this proceeding.

But, having said that, in the interest of moving forward on this matter, Bresnan has no objection to incorporating into this proceeding an inquiry into whether Bresnan’s request for direct interconnection is prohibited by the rural exemption. Further, Bresnan is prepared to offer testimony on this issue by November 17, 2008 as contemplated in the arbitration schedule. Bresnan is also prepared to go to hearing on this issue on January 27 and 28, 2009 as currently scheduled.



Therefore, since UBTA-UBET cites absolutely no authority for the proposition that this issue must be considered independent from the other issues in this case, there is no reason in law or public policy to suspend the current arbitration schedule and resolve this issue on a stand-alone basis. To the contrary, this issue is well within the scope of the current docket. Further, incorporating this issue into the current docket would promote judicial economy and make this process easier, quicker, and less expensive for the parties.

Additionally, it has been almost exactly one year since Bresnan was granted a certificate to provide competitive telecommunications services in Vernal, Utah. It has been almost nine months since Bresnan first requested interconnection with UBTA-UBET. Yet throughout this time, customers in Vernal have been without the competitive choice the Commission deemed to be in the public interest when it granted Bresnan's certificate. As the Commission is charged by state and federal law to promote and encourage competition, further unnecessary delays in this proceeding are in direct conflict with that mandate and the public interest.

Finally, the Commission may recall that Bresnan has requested interconnection under both state and federal law. Therefore, even if the Commission decides that the issue of interconnection under federal law must be heard after a hearing and ruling on the rural exemption, there is no reason to delay the schedule for considering Bresnan's request for interconnection under Utah state law. In this circumstance, Bresnan would likewise have no objection to hearing the issue of interconnection under state law in conjunction with a hearing on the issue of the rural exemption.

For the foregoing reasons, Bresnan respectfully requests that the Commission deny, in part, the relief requested in UBTA-UBET's letter of November 4, 2008 and order that the issue of the rural exemption may be heard in this docket but the docket will continue under the schedule already agreed to by UBTA-UBET.

Respectfully,

s/ Thorvald A. Nelson

Thorvald A. Nelson
for Holland & Hart LLP

cc: Service List for Docket No. 08-2476-02