

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Petitions )  
of Bresnan Broadband of Utah, ) Docket No.  
LLC, to Resolve Dispute Over ) 08-2476-02  
Interconnection of Essential )  
Facilities and for Arbitration )  
to Resolve Issues Relating to )  
an Interconnection Agreement )  
with UBTA-UBET Communications, )  
Inc. )

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TRANSCRIPT OF HEARING PROCEEDINGS  
VOLUME I

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TAKEN AT: Public Service Commission  
160 East 300 South, Room 451  
Salt Lake City, Utah

DATE: 27 January 2009

TIME: 9:30 a.m.

REPORTED BY: Debra A. Dibble; CSR, RPR

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EXHIBITS

BRESNAN EXHIBITS:

- 1 Petition to Resolve Dispute over  
Interconnection of Essential Facilities.
- 2 Bresnan Broadband of Utah, LLC's Response  
To Division of Public Utilities' Second  
Set of Data Requests.
- 3 Quest Utah SGAT Seventh Revision,  
Exhibit A.
- 4 UBTA-UBET Communications, Inc's Responses  
To Bresnan Broadband of Utah, LLC's  
Second Set of Data Requests.  
Harris replacement pages.
- 6 12/6/04 letter to Stanley Stoll from  
Julie Orchard, with attachments.
- 7 Direct Testimony of Peggy N. Egbert/  
Docket 03-2403-02.  
(ADMINISTRATIVE NOTICE.)
- 8 Rebuttal Testimony on Cost Analysis  
For Interconnection rates of Peggy  
N. Egbert/Docket 03-2403-02.  
(ADMINISTRATIVE NOTICE.)
- 9 Direct Cost Analysis Testimony of  
Jonathan Lee/Docket 03-2403-02  
(ADMINISTRATIVE NOTICE.)
- 10 Rebuttal cost Analysis Testimony of  
Jonathan Lee/Docket 03-2403-02  
(ADMINISTRATIVE NOTICE.)

UBTA-UBET EXHIBITS:

- 1 Direct Testimony of Valerie Wimer on  
Behalf of UBTA-UBET Communications, Inc.
- 2 Current interconnects.
- 3 Proposed language changes for UBTA-UBET's  
original Essential Facilities Agreement.
- 4 Bresnan Broadband of Utah LLC's Response  
To UBTA-UBET Communications, Inc.'s  
First Set of Data Requests.
- 5 U.S. Code Collection. (Withdrawn)

1 EXHIBITS (continued)

2 URTA EXHIBITS:

- 3 1 Direct Testimony of Douglas Duncan  
4 Meredith on behalf of URTS and UBTA-  
5 UBET, Communications, Inc.

6 DEPARTMENT OF PUBLIC UTILITIES EXHIBITS:

- 7 1 Direct Testimony of Casey J. Coleman.  
8 2 Interconnection Agreement.  
9 (Union/UBTA-UBET)  
10 3 Interconnection Agreement (UBTA-UBET/WWC)  
11 4 UBTA-UBET Responses to DPU's Second Set  
12 of Data Requests.

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1 P R O C E E D I N G S

2 (Whereupon, Exhibit Nos. B1 through  
3 B4 were marked for identification.)

4 ADMINISTRATIVE LAW JUDGE: We are on the  
5 record. This is the matter of the petition of Bresnan  
6 Broadband of Utah, LLC to resolve dispute over  
7 interconnection of essential central facilities and for  
8 arbitration to resolve issues relating to an  
9 interconnection Agreement with UBTA-UBET  
10 Communications, Inc.; Docket No. 082476-02.

11 Let's take appearances first.

12 We'll start with Bresnan.

13 MR. NELSON: Good morning, Your Honor.  
14 Thorvald Nelson of the law firm of Holland & Hart,  
15 appearing behalf of Bresnan.

16 With me at counsel table is Mr. Jerold  
17 Lambert of Bresnan, and Mr. Alex Harris, also of  
18 Bresnan.

19 MS. SLAWSON: Good morning, Your Honor.  
20 Kira Slawson, from Blackburn & Stoll, on behalf of  
21 UBTA-UBET Communications, Inc.

22 And with me at counsel's table is Valerie  
23 Wimer, with JSI.

24 ADMINISTRATIVE LAW JUDGE: Thank you.

25 MR. MECHAM: Good morning. Steve Mecham,

1 representing Real Telecom Association. And I have with  
2 me Douglas Meredith, who will be testifying later  
3 today.

4 ADMINISTRATIVE LAW JUDGE: All right.  
5 Great.

6 MR. GINSBERG: Michael Ginsberg,  
7 representing the Division of Public Utilities.

8 And the Division witness is Casey Coleman,  
9 who is present in the room.

10 ADMINISTRATIVE LAW JUDGE: Thank you.

11 Before we start, are there any issues that  
12 need to be raised? Anything we need to talk about?  
13 Before commencing?

14 Okay.

15 MR. MECHAM: Your Honor, excuse me. I did  
16 note to both you yesterday, and I told this to  
17 Mr. Nelson, that I would suggest, as far as the order  
18 of cross-examination is concerned, Ms. Slawson precede  
19 me, and then I will follow.

20 ADMINISTRATIVE LAW JUDGE: Okay.

21 MR. MECHAM: If that's okay.

22 ADMINISTRATIVE LAW JUDGE: Okay.

23 MS. SLAWSON: Additionally, Your Honor,  
24 procedurally, as you're aware, UBTA-UBET filed a motion  
25 to dismiss in this matter, which obviously the

1 Commission denied. And for purposes of preserving the  
2 record on appeal, we'd just like to renew that motion  
3 at this time.

4 We are aware of the Commission's position,  
5 and all of the parties have done a briefing. But for  
6 purposes of appeal, we'd like to preserve that.

7 ADMINISTRATIVE LAW JUDGE: Okay.

8 MS. SLAWSON: Thank you.

9 ADMINISTRATIVE LAW JUDGE: Thank you.

10 Then let's go ahead and begin with  
11 Mr. Nelson.

12 MR. NELSON: Thank you, Your Honor. Bresnan  
13 would call to the stand Mr. Alex Harris, please.

14 ADMINISTRATIVE LAW JUDGE: Mr. Harris, can  
15 you raise your right hand for me?

16 ALEX HARRIS,  
17 having first been duly sworn, was examined and testified  
18 as follows:

19 DIRECT EXAMINATION

20 BY MR. NELSON:

21 Q. Good morning, Mr. Harris.

22 A. Good morning.

23 Q. Mr. Harris, will you please state and spell  
24 your name for the record?

25 A. Alex J. Harris. A-L-E-X, middle initial J,



1 last name H-A-R-R-I-S.

2 Q. And by whom are you employed, and in what  
3 capacity?

4 A. I am employed by Bresnan Communications, as  
5 Vice President Network Planning and Industry Affairs.

6 Q. And what are your responsibilities within  
7 that job, at a high level?

8 A. I am responsible for planning our use of  
9 transmission facilities in our network for  
10 interconnection with other service providers and  
11 carriers, and -- or things per -- other matters  
12 pertaining to those areas.

13 Q. Okay.

14 MR. NELSON: May I approach, Your Honor?

15 ADMINISTRATIVE LAW JUDGE: Yes, you may.

16 Q. (BY MR. NELSON) Mr. Harris, first I've  
17 placed in front of you what's been marked for  
18 identification as Exhibit B1. Do you see that  
19 document, sir?

20 A. Yes, I do.

21 Q. And can you tell me what that document is?

22 A. It is my pre-filed testimony and exhibit in  
23 this case. The exhibit was the -- the proposed --  
24 present proposed Interconnection Agreement, all of  
25 which was filed in late November.

1 Q. Okay.

2 And if I asked you the questions related --  
3 or if I asked you the questions included in that  
4 pre-filed testimony today under oath, Mr. Harris, would  
5 your answers be the same?

6 A. Yes, they would.

7 MR. NELSON: Move the admission of B1.

8 ADMINISTRATIVE LAW JUDGE: Any objection?

9 MR. MECHAM: No.

10 ADMINISTRATIVE LAW JUDGE: Go ahead and  
11 admit that.

12 (Whereupon, Exhibit No. B1  
13 was admitted.)

14 Q. (BY MR. NELSON) Okay.

15 Before we get to your summary, Mr. Harris, I  
16 wanted to also ask you if you could please take a look  
17 at what's been marked for identification as Exhibit B2.

18 A. Yes.

19 Q. And can you tell me what that is?

20 A. This is Bresnan Broadband's response to the  
21 staff data requests, second set of staff data requests.

22 This includes two attachments, one of which  
23 was a red-line -- which Bresnan prepared -- of the UBET  
24 proposed agreement, and the other is a set of --  
25 spreadsheet workpaper that Bresnan had prepared.

1 Q. Okay.

2 MR. NELSON: Your Honor, do you need a copy  
3 of B2? Do you have that handy?

4 ADMINISTRATIVE LAW JUDGE: Is that the data  
5 request responses?

6 MR. NELSON: Yes.

7 ADMINISTRATIVE LAW JUDGE: I don't have that  
8 yet.

9 MR. NELSON: Okay.

10 This is B2.

11 ADMINISTRATIVE LAW JUDGE: Okay.

12 MR. NELSON: And while I'm up here, this is  
13 B3. And it looks like I've got the wrong one.

14 This one is B4.

15 ADMINISTRATIVE LAW JUDGE: Okay.

16 Q. (BY MR. NELSON) And, Mr. Harris, were you  
17 responsible for the data responses and the attachments  
18 that are reflected on Exhibit B2?

19 A. Yes.

20 Q. Okay.

21 MR. NELSON: Move the admission of Exhibit  
22 B2, please.

23 ADMINISTRATIVE LAW JUDGE: Any objections?

24 MR. MECHAM: None.

25 ADMINISTRATIVE LAW JUDGE: We'll go ahead

1 and admit those.

2 (Whereupon, Exhibit No. B2  
3 was admitted.)

4 Q. (BY MR. NELSON) Okay.

5 Now, part of Exhibit B2, Mr. Harris,  
6 includes some spreadsheets that are reflected, if you  
7 look at the very back of Exhibit B2, the final five  
8 pages. Do you see those, sir?

9 A. Yes, I do.

10 Q. Okay.

11 And just -- while we're getting this  
12 administrative stuff out of the way, I wanted to talk  
13 to you about some of the data sets that you used with  
14 respect to those spreadsheets.

15 Would you look for me at what's been marked  
16 for identification as Exhibit B3?

17 A. Yes.

18 Q. And can you tell me what that is?

19 A. This is the current Qwest Utah Exhibit A  
20 price list to the Qwest SGAT for Utah.

21 Q. And is this a document that you used in  
22 coming up with some of the numbers that are reflected  
23 in the spreadsheets that are at the back of B2?

24 A. Yes. Certain of the prices listed in  
25 this -- in this SGAT price list were used as inputs

1 into the -- the B2 spreadsheets.

2 Q. Okay.

3 MR. NELSON: Move the admission of  
4 Exhibit B3.

5 ADMINISTRATIVE LAW JUDGE: Any objections?

6 MR. MECHAM: No.

7 ADMINISTRATIVE LAW JUDGE: We'll admit  
8 those.

9 (Whereupon, Exhibit No. B3  
10 was admitted.)

11 MR. NELSON: Okay.

12 Q. (BY MR. NELSON) And then lastly, I'd ask  
13 you, Mr. Harris, to look at what's marked for  
14 identification as Exhibit B4.

15 A. Yes.

16 Q. And can you tell me what those are?

17 A. These are the data requests that Bresnan  
18 sent to UBTA and UBET, and the responses that UBTA UBET  
19 provided.

20 Q. And I'd call your attention in particular to  
21 the response submitted to Request 2.1, which you'll see  
22 on page two of what's been marked for identification as  
23 Exhibit B4.

24 Do you see that, sir?

25 A. Yes, I do.

1 Q. And is that also data that you used in the  
2 preparation of the spreadsheets that were included in  
3 Exhibit B2?

4 A. Yes.

5 MR. NELSON: Move the admission of  
6 Exhibit B4.

7 ADMINISTRATIVE LAW JUDGE: Any objections?

8 MS. SLAWSON: No objections.

9 ADMINISTRATIVE LAW JUDGE: We'll admit that.

10 (Whereupon, Exhibit No. B4  
11 was admitted.)

12 MR. NELSON: Okay.

13 Q. (BY MR. NELSON) Mr. Harris, in your original  
14 testimony, which has been admitted as Exhibit B1, you  
15 submitted, as an exhibit to that testimony, a document  
16 entitled a Traffic Exchange Agreement. Do you recall  
17 that, sir?

18 A. Yes.

19 Q. Okay.

20 And then subsequently, in response to the  
21 Division's discovery request, you have submitted and  
22 prepared a response which -- in Exhibit B2, a document  
23 called Essential Facilities Agreement between UBTA UBET  
24 Communications, Inc., and Bresnan Broadband of Utah,  
25 LLC. Is that correct?

1 A. Yes.

2 Q. Okay.

3 Now, just as a starting point, can you  
4 explain what you have attempted to do in attachment --  
5 in the attached Essential Facilities Agreement that is  
6 included in a red-line in Exhibit B2? What was your  
7 intent there?

8 A. The intent was to red-line the UBTA UBET  
9 proposed agreement, to make it consistent with the  
10 positions that Bresnan had taken in its original  
11 agreements submitted in this case.

12 Q. Okay.

13 So at this point, going forward, would it be  
14 fair to say that the --

15 Well, let me back up. Let me just ask the  
16 question this way.

17 Here today, as you sit before the  
18 Commission, would you suggest that the Commission look  
19 to the discovery response that is provided on  
20 Exhibit B2 as Bresnan's sort of most current position  
21 with respect to the form of the Interconnection  
22 Agreement that ought to be adopted in this proceeding?

23 A. Well, while Bresnan would have preferred to  
24 proceed with its original agreement, and having been  
25 the first party to submit an agreement in the case

1 would have expected the responding parties to red-line  
2 that original agreement, that wasn't what took place.

3 For -- staff had suggested that it would be  
4 appropriate to try to work -- for the Commission, to  
5 try to work from a single draft rather than trying to  
6 contrast two different drafts. And we agree. And for  
7 the convenience of the Commission, and in deference to  
8 the suggestion of staff, we have red-lined the UBTA  
9 UBET draft agreement, and that, as of today, would  
10 represent our position going forward.

11 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

12 MR. NELSON: Okay. Thank you.

13 Q. (BY MR. NELSON) Let me ask -- you had  
14 indicated in your testimony previously that you had  
15 attempted to take the substance of the positions that  
16 were articulated in the Traffic Exchange Agreement  
17 provided with your original testimony, and then  
18 transfer those, as best as you could, to the red-line  
19 of the agreement that was attached to Exhibit B2.

20 Let me ask if in doing so, were there any  
21 sort of substantive changes to the position that  
22 Bresnan is proposing in this proceeding that you'd like  
23 to highlight at this time?

24 A. Yes. There were two substantive changes  
25 that we made.



1                   One was in the original Bresnan proposed  
2 agreement, we had proposed that the parties be allowed  
3 to use the direct interconnection trunk groups to  
4 terminate all forms of traffic subject to their unique  
5 governing law or tariffs, so that switched access and  
6 local traffic could be co-mingled in the same trunk  
7 group, which is an efficient form of exchanging traffic  
8 without, you know, violating any -- any rules or  
9 requirements.

10                   UBTA UBET had opposed that. This is, you  
11 know -- you know, interconnection between a single  
12 switch and a single switch, so we thought, Do you know  
13 what? It's not that important an issue to us. And to  
14 simplify things, we've -- we've not carried that  
15 proposal forward in the red-line.

16                   And so the red-line agreement would only  
17 allow use of the direct interconnection for groups for  
18 the purposes of terminating local EIS and ISP-bound  
19 traffic.

20                   Q. Okay.

21                   Any additional --

22                   A. In either direction.

23                   Q. Okay.

24                   A. The other major change was in the original  
25 Bresnan proposal, we had not defined various kinds of

1 labor charges for expedite, order cancellations, other  
2 things.

3 In the -- and that was primarily because we  
4 were -- hadn't actually had any kind of sit-down  
5 negotiation. Hadn't, you know, contemplated those  
6 kinds of things.

7 We don't typically have cancellations, or  
8 expedites in this kind of scenario. It's not unheard  
9 of, but it's not typical, and hadn't been something  
10 that we had focused on.

11 But we're certainly not opposed to having  
12 charges for those kinds of activities, and so we have  
13 included that in the red-line as well. And that was --  
14 okay.

15 Q. Okay.

16 Let's make sure that everyone is  
17 understanding, sort of the location of these two issues  
18 you just identified.

19 Let me ask, if you could, in Exhibit B1, in  
20 the attached red-line, could I call your attention to  
21 pages five and six of what is identified as the  
22 Interconnection Agreement?

23 A. This was the original Bresnan  
24 Interconnection Agreement -- proposal --

25 Q. No.

1 A. No. I'm sorry.

2 Q. This is in B2, the red-line.

3 A. B2? Yes. Okay.

4 Q. Okay? If you flip to the section which is  
5 identified as the Interconnection Agreement --

6 A. Or Interconnection Attachment?

7 Q. Yes.

8 A. Okay. Yes.

9 Q. And then look at page five, and then  
10 continuing on to the top of page six.

11 A. Yes.

12 Q. Okay.

13 That section, which is labeled in the blue  
14 at the bottom of 3.4.4, is that the section which you  
15 were referring to which now is Bresnan's proposal  
16 accepting the position that was advanced by UBTA UBET,  
17 that in essence the interconnection trunks would not  
18 include traffic other than local traffic which includes  
19 local EAS and the ISP-bound?

20 A. Yes. That's correct.

21 Q. And then secondly, that other -- the other  
22 issue you mentioned, let me ask if you could take a  
23 look at what's identified in Exhibit 2 as the Pricing  
24 Attachment. Right towards the end of that document.

25 A. Mm-hmm. Yes.

1 Q. Would I be correct that on pages one and  
2 two, the language that's reflected again in blue would  
3 be the new language that Bresnan is suggesting with  
4 respect to those expedited charges and cancellation  
5 charges, et cetera?

6 A. Yes.

7 Q. Since the discovery response was submitted  
8 just last week Friday, with respect to this red-line  
9 document, have you identified whether there are any  
10 errors with respect to how that red-line was created,  
11 that you would now like to correct?

12 A. Yes.

13 Q. Okay.

14 Could you just identify first, where your  
15 first error shows up and explain what the problem is?

16 A. In the General Terms and Conditions, Section  
17 Three, Termination of the Agreement. The paragraph  
18 currently numbered 3. -- or originally numbered 3.1,  
19 the title to that paragraph should be changed to  
20 Termination for Continuing Default.

21 Q. Let me stop you --

22 MR. GINSBERG: Can you tell us what page  
23 you're on?

24 THE WITNESS: I'm sorry. That would be  
25 page --

1 MR. NELSON: Page three.

2 MR. GINSBERG: Oh, okay.

3 MR. NELSON: Your Honor, I have a question.

4 Mr. Harris has a few changes, and he has  
5 suggestions as to how he might correct the document to  
6 what he would have intended it to be.

7 ADMINISTRATIVE LAW JUDGE: Uh-huh.

8 MR. NELSON: Would you like Mr. Harris to  
9 make those corrections on Exhibit B2, so that the  
10 record has a copy of the corrections he's about to go  
11 through? Or would you prefer some other vehicle, such  
12 as we could submit, at some point in the proceeding, a  
13 corrected page?

14 I'm just wondering, logistically, what would  
15 be your preference?

16 ADMINISTRATIVE LAW JUDGE: My preference  
17 would be at some point during the hearing submit a  
18 corrected page of that.

19 THE WITNESS: Shall I go ahead and describe  
20 it?

21 MR. NELSON: Yes, let's go ahead and do  
22 that, and we'll submit a correct page as soon as we  
23 have a moment to get back and get one printed up.

24 THE WITNESS: So under the General Terms and  
25 Conditions portion of the agreement, under Section 33

1 dot -- 3.1, the title should be changed to Termination  
2 for Continuing Default.

3 And then, the -- in prior -- as an opening  
4 clause to the first sentence, should be inserted the  
5 words "following the exhaustion of the dispute  
6 resolution process in Section 12 comma --"

7 Q. Hold on just one second.

8 Okay.

9 THE WITNESS: Then later, between the words  
10 "in part in the event of A," after the word A, insert  
11 the word "continuing."

12 And having made those two revisions, then  
13 flip the order of the existing paragraph 3.1 and 3.2,  
14 so that 3.2 becomes the new 3.1, and the old 3.1  
15 becomes the new 3.2.

16 Q. Okay.

17 And can you explain sort of how three dot --  
18 the old 3.1 and the old 3.2 is now suggested to be  
19 flipped, what the concern was with respect to those two  
20 paragraphs working together?

21 A. The point of the paragraphs is is that the  
22 agreement would not be terminated prior to exhausting  
23 the dispute resolution process.

24 That there is a process that would be in  
25 place that the parties would follow. And that if

1 following the, you know, the resolution of that process  
2 the default was not cured, then the termination.

3 But prior to that, where there's a  
4 legitimate dispute going forward, that no termination  
5 would take place.

6 Q. Okay.

7 Do you have any other corrections?

8 A. Yes.

9 In Section 2.2 of the Interconnection  
10 Agreement -- of the interconnection attachment. I'm  
11 sorry.

12 Q. Just identify what page that's on.

13 A. I'm --

14 Q. You're going to get there?

15 A. Yes.

16 Q. And that is page -- in Exhibit B2, that is  
17 page two of the interconnection attachment,  
18 Section 2.2.

19 A. We would delete the third sentence in that  
20 section which begins "Each party warrants that the  
21 services it provides to end user customers."

22 Q. And that then continues on to the top of  
23 page three?

24 A. Yes. The entire third sentence would be  
25 removed.

1 Q. And can you explain the need for that  
2 correction?

3 A. Well, the Interconnection Agreement, this  
4 provision in the agreement states -- requires that the  
5 parties not use the interconnection arrangements that  
6 they're establishing here for the termination of  
7 traffic of nomadic services. And we have no issue with  
8 that that nomadic services would not be treated as  
9 local traffic.

10 However, the sentence that we propose to  
11 delete here would go further than that and say a party  
12 wouldn't even be allowed to offer such nomadic  
13 services. And, in fact, the original draft said just  
14 exclusively Bresnan wouldn't be allowed.

15 And when we initially red-lined it, we were  
16 responding quickly, and just said, Well, we'll make it  
17 mutual. But then upon reflection, it occurred to me  
18 that it's not appropriate to put a service restriction  
19 in an Interconnection Agreement. The only thing that's  
20 relevant to the interconnection is that the traffic not  
21 be exchanged as local.

22 We don't currently offer nomadic services.  
23 We have no plans to offer nomadic services. However,  
24 to the extent that they are or may at sometime become  
25 legal, and -- you know, to do so, and I don't know if



1 they are, you know, how -- I assume that some are, some  
2 may not. That it became legal to do so, and that there  
3 was a compelling business interest to do so, we would  
4 want to -- we don't want to be restricted by an  
5 Interconnection Agreement from exercising our rights.

6 And I assume that neither would UBTA UBET.

7 Q. If in that future eventuality Bresnan did  
8 decide that they did want to offer some nomadic  
9 services, would it be the case that having done so,  
10 traffic associated with those nomadic services would  
11 not be allowed to be terminated under the  
12 Interconnection Agreement that you're proposing?

13 A. Yes. In the red-line it states in a few  
14 different places that anything that's not, you know,  
15 explicitly local, EAS or ISP-bound traffic would not be  
16 terminated under the terms of this agreement, and would  
17 be subject to switched access.

18 Q. All right. Any other additional corrections  
19 beyond that?

20 A. Yes. In Section 3.4 of the Interconnection  
21 Agreement -- of the interconnection attachment, rather,  
22 and that is on page five, we propose to insert -- and  
23 it would actually be paragraph 3.4.1.

24 Okay. The last sentence that begins,  
25 "neither party will terminate." After the word

1 terminate, insert the words "IntraLATA toll traffic  
2 or."

3 And I'll repeat that. It's the words  
4 "IntraLATA toll traffic or."

5 And that would be consistent with the  
6 position that -- the original position of UBTA UBET,  
7 and the position we're now taking in the red-line, that  
8 these trunk groups would be exclusively for local EAS  
9 or ISP-bound traffic.

10 Q. Okay. Anything further?

11 A. Yes.

12 The fourth correction is in, I believe the  
13 Ancillary Services Attachment, Section 6.6.1, which  
14 appears on page six of the Ancillary Services  
15 Attachment in Exhibit B2.

16 And what we propose there -- oh, sorry. --  
17 is to, in the -- in Section 6.6.1, replace -- at the  
18 beginning of the sentence, replace the word "cut-over"  
19 with the words "hot-cuts for LNP."

20 And delete the remainder of the sentence and  
21 insert the words -- or I'm sorry. " -- for LNP will be  
22 provided," and then after the word "provided" delete  
23 the remainder of the sentence and insert the words  
24 "subject to rates set forth in the pricing attachment."

25 And then finally, in conjunction with that

1 change, we propose, on the pricing attachment, at  
2 the -- following the LSR cancellation charge, to insert  
3 a new line item entitled LNP hot-cut charge.

4 And the language there would be "charges  
5 billed by the OSP," capital O, capital S, capital P,  
6 "shall be according to the labor rates set forth in  
7 UBET's intrastate access tariff governing feature D  
8 service in effect at the time."

9 And the --

10 Q. Before you go on, maybe if you could just  
11 read that slowly one more time.

12 A. I'm sorry.

13 Q. I bet there are people who are trying to  
14 write that down that didn't get it all.

15 A. "Charges billed by the OSP shall be  
16 according to the labor rates set forth in UBET's  
17 intrastate access tariff governing feature D service in  
18 effect at the time."

19 Q. Okay.

20 Could you maybe explain the basis for those  
21 two changes, both to 6.6 at the Ancillary Services  
22 section, as well as then the corresponding change on  
23 the pricing attachment?

24 A. A -- in our original draft, we were thinking  
25 in terms of simple LNP ports, for which it's a very

1 simple matter. You know, it's -- it doesn't really  
2 entail, you know, any -- any activity.

3 But a coordinated hot-cut is where you may  
4 have a business that has multiple lines that need to be  
5 cut-over simultaneously, perhaps within a very limited  
6 strict time period, or some other kind of institution.

7 In which case there is -- there may be some,  
8 you know, extended activity. And so in that case, it  
9 would be appropriate for the -- for the service  
10 provider, from whom those numbers are being ported, to  
11 be compensated for those labor activities associated  
12 with the hot-cut.

13 Q. Okay.

14 A. Coordinated hot-cut.

15 Q. Anything further by way of corrections that  
16 you would add at this point in time?

17 A. No. That's all of them.

18 Q. Okay.

19 Mr. Harris, in advance of this hearing, have  
20 you had an opportunity to review the pre-filed  
21 testimony that has been submitted by Mr. Meredith and  
22 Ms. Wimer on behalf of the URTA and UBTA UBET?

23 A. Yes.

24 Q. At this point I wonder if you could just  
25 supply us with your response, if you would, to the

1 issues and positions that have been expressed by those  
2 two witnesses; and in so doing, suggest why you, on  
3 behalf of Bresnan, support the red-lined agreement that  
4 we've been discussing as Exhibit B2?

5 A. Well, the overall approach that Bresnan  
6 takes, with respect to interconnection, is that the  
7 agreement needs to be competitively neutral, to ensure  
8 that there is real competitive choice for the consumers  
9 and businesses, in this case in Vernal.

10 And the -- in our opinion, the original  
11 agreement that was proposed by the UBTA UBET witnesses  
12 was not competitively neutral, and it -- it would not  
13 provide for a sustainably competitive market, to the  
14 benefit of the consumers and businesses residing there.

15 And we came at this from basically three  
16 criteria. That the Interconnection Agreement should  
17 follow industry norms. It should be in the mainstream.

18 Interconnection has been going on in this  
19 country for -- well, since before the Telecom Act of  
20 '96. It's actually the first Interconnection  
21 Agreements I was involved with date back to late 1993  
22 and early 1994. A lot has been developed across the  
23 country throughout that intervening 16 years. I'm  
24 older than I thought.

25 But norms have developed, and they're

1 industries standards, and it's commonplace across the  
2 country. And that's what people think about when  
3 they're talking about access to essential facilities  
4 and interconnection.

5 And some example -- and when I say industry  
6 norms, it's because it's easy, it's defined, it's  
7 worked out. There are standards and practices that can  
8 be applied. There's no guessing.

9 And also because it -- you know, it should  
10 reflect, you know, some reasonable cost basis.

11 And examples of things that we believe were  
12 lacking in the positions taken originally by the UBTA  
13 UBET witnesses were a matter of indirect  
14 interconnection. Indirect interconnection has been  
15 part of every Interconnection Agreement I've been party  
16 to, and, as far as I know, is -- is, you know, provided  
17 for in the vast majority of agreements out there.

18 There may be -- you know, there are  
19 occasional agreements that don't provide for it. For  
20 whatever reason those are typically -- for whatever  
21 reason those are all typically -- as far as I know,  
22 those were all directly negotiated, not anything that  
23 was arbitrated.

24 By the same token, bill-and-keep, up to a  
25 threshold level, where traffic is in balance, has been

1 adopted widely across the country. You see it in, you  
2 know, in the Qwest territory. In fact, we all -- we  
3 currently have interconnection agreements with -- if  
4 you start at the, you know, sort of the holding company  
5 level, I guess you would say three -- three incumbent  
6 LECs, one RBOC, you know, operating in multiple  
7 states -- so each, actually, of the operating companies  
8 with a separate agreement -- one large independent, and  
9 one rural independent, all of which call for indirect  
10 interconnection.

11 Or I'm sorry, all of which -- well, all of  
12 which call for indirect interconnection, but all of  
13 which also call for bill-and-keep up to a threshold  
14 level of, I believe, 60 percent traffic and balance.

15 And we've found that to be, you know,  
16 extremely useful. Those were negotiated agreements  
17 that the other parties were as interested in as we are  
18 were.

19 By the same token, all of those agreements,  
20 and every agreement that I'm familiar with includes EAS  
21 traffic as part of local, and is not -- mandatory EAS  
22 traffic is part of local, and does not provide for, you  
23 know, some form of flat rate compensation that's --  
24 regardless of use.

25 That's -- that's, as far as I know

1       unprecedented. You know, I don't have a -- don't have  
2       an encyclopedic knowledge or knowledge of every  
3       agreement out there, but I'm fairly certain I would  
4       have heard something like that.

5                 It may have been something that was  
6       voluntarily negotiated between parties, but I would be  
7       hard pressed to find anything that was -- that wasn't  
8       voluntarily agreed to.

9                 And then things like the provision of simple  
10       LNP ports and CRS -- and customer service records, you  
11       know, without charges between the companies is also a  
12       mainstream.

13                And so those were examples of things being  
14       industry norms, you know, reflecting the standards of  
15       practices in the business today.

16                A second principal, that the agreement be  
17       balanced and reciprocal.

18                Parties to an Interconnection Agreement are  
19       functioning as co-carriers. It's not truly a customer  
20       carrier-relationship as you would find if you're  
21       providing, you know, services to an end user, or even  
22       if you're providing necessarily transport services  
23       to -- to a wholesale customer necessarily, or switched  
24       access services.

25                In this case, we're cooperatively exchanging



1 traffic with one another, and porting numbers back and  
2 forth in response to the wishes of the customers.

3 And so the -- the agreement should reflect  
4 that this is a bilateral agreement, of co-carriers,  
5 peer parties interconnecting, and coming to -- you  
6 know, coming to the same terms.

7 And some examples where we've found that the  
8 draft agreement proposed by UBTA UBET departed from  
9 that principal was in the area of penalty provisions  
10 and various safeguards, for instance that said Bresnan  
11 shall not do such and -- you know, thus and such, but  
12 had no prohibition -- reciprocal prohibition on UBTA or  
13 UBET engaging in some practices. In fact, UBTA UBET  
14 does this. For instance, we'll provide services to  
15 ISPs, or we'll provide FX services, but Bresnan shall  
16 not.

17 And so we reversed that and made that  
18 reciprocal. Either said that, you know, in -- where it  
19 was appropriate, we said neither party shall do such a  
20 thing. And where it was approp -- where it was  
21 inappropriate, we just said we removed it all together,  
22 but said that the -- you know, changed the provision to  
23 say, Well, to the extent that the traffic exchange  
24 might be originated from those services, it shall be  
25 treated separately. So that both parties are

1       safeguarded.

2                   But the interconnection agreements shouldn't  
3       contain limitations on the services that one party  
4       should provide, but it should only have mutual  
5       limitations that says, Any traffic from your services  
6       that's going to be exchanged subject to this agreement  
7       must meet these parameters and will be under these  
8       terms.

9                   So those were the kinds of things that --  
10       you know, that meet that balanced and reciprocal  
11       principal.

12                   The third is continuity of the service.

13                   And the goal here is that once we're, you  
14       know, initiate operations, we will be serving end users  
15       in this market. Those end-user customers have the same  
16       expectation and right to a continuity of services  
17       anyone -- as any other customer. And so we have to  
18       ensure that the agreement does not have hair-trigger --  
19       you know, does not contain hair-trigger traps, if you  
20       will, that would allow one party to unilaterally  
21       terminate service, or terminate the interconnection, so  
22       that calls start falling on the floor, and that some  
23       portion of the population is unable to communicate with  
24       the other portion of the population.

25                   That doesn't mean that there shouldn't be

1 safeguards against bad behavior, but it means that  
2 those safeguards have a process. There's a due process  
3 built around it so that, you know, you go through the  
4 process. And if the continuing bad behavior is not  
5 resolved, assuming that it's -- you know, determined  
6 that it's not a -- a -- an honorable -- you know, an  
7 honest difference of opinion, but has been through  
8 dispute resolution proceedings, been finally determined  
9 that this -- you know, that this activity should cease  
10 and that it continues after that, then there would be  
11 termination.

12 But the goal is not that one party says,  
13 Well, you know, there's a technical violation, and I'm  
14 turning you off. And then the other party takes a week  
15 to go get a court order. And by the time you get it  
16 turned back on, you know, those customers are left with  
17 nothing. So that's -- that was the point of, you know,  
18 continuity.

19 And, again, the goal here is to create a  
20 viable, workable agreement to ensure competitive  
21 neutrality so that the consumers and businesses  
22 residing in Vernal will have a real choice for  
23 telephone service.

24 That's -- that's the overall position we  
25 took.

1                   And that's -- that's how the red-line that  
2 we have submitted disagrees with the -- you know, at a  
3 general level.

4                   There are other -- you know, a series of  
5 other things that we would dispute in those  
6 testimonies, but that's the overall, high level of it.

7                   Q.    Okay.  Thank you Mr. Harris.

8                   MR. NELSON:  We have no further questions of  
9 this witness at this time, and he's available for  
10 cross-examination.

11                   ADMINISTRATIVE LAW JUDGE:  Okay.  
12 Ms. Slawson?

13                   MS. SLAWSON:  Could I have just a moment,  
14 Your Honor?

15                   ADMINISTRATIVE LAW JUDGE:  Sure.

16                                   CROSS EXAMINATION

17 BY MS. SLAWSON:

18                   Q.    Good morning, Mr. Harris.

19                   A.    Good morning.

20                   Q.    We appreciate your testimony here this  
21 morning, and your provision of the red-line agreement  
22 and working from that agreement.

23                                   So what I'm going to do is go through that  
24 agreement.  I have a couple of -- a few questions for  
25 you.  I'll kind of outline them as we go through this

1 agreement, and then I'll -- as we go through it I'll  
2 also address some of the issues that you suggested on  
3 your direct.

4 A. Okay.

5 MR. GINSBERG: We're going to have some  
6 trouble hearing her, because there's no mic up there.  
7 I don't know if there's any --

8 MR. NELSON: We seem to have a surplus at  
9 this table.

10 MS. SLAWSON: Do you want me to just talk  
11 louder?

12 Is that better?

13 Q. (BY MS. SLAWSON) Initially, if you turn to  
14 page one of the Bresnan red-line agreement, which is  
15 Exhibit B2, we had some whereas -- UBTA UBET had some  
16 whereas clauses. And I just wanted to get some  
17 clarification from you as to why you made some of those  
18 changes.

19 You have deleted the reference to Bresnan as  
20 a VoIP carrier, and I wanted to know, what was the  
21 reason for that?

22 A. Because as far as I know that's -- that term  
23 isn't defined in this agreement, and it's not really  
24 used any place in the agreement.

25 And, you know, what's important here is that

1 we're -- you know, we're a telecommunications  
2 corporation, under Utah law.

3 Q. Okay.

4 And can I ask you, is it Bresnan's position  
5 that it is mandated to comply with the State rules  
6 regarding telecommunications?

7 A. To the extent we're offering  
8 telecommunications services, we would be required to  
9 comply with any laws that applied to the services we're  
10 providing.

11 Q. And how would that answer differ if you were  
12 providing voice-over-internet protocol services?

13 A. I really don't know, because I don't know  
14 what the -- you know, there -- voice-over-internet  
15 protocol can refer to myriad variations of services,  
16 some which may or may not be telecommunications  
17 services.

18 I can only state that the services we  
19 provide -- that we do provide, or plan to provide, will  
20 comply with all applicable laws and regulations.

21 Q. Okay.

22 In Section 1.2 of the agreement, you had  
23 made a change that the traffic shall be subject to the  
24 party's respective tariffs or equivalent price lists.  
25 Do you see that change there?

1 A. Yes.

2 Q. And can you tell me, what is -- is Bresnan  
3 limited in what it can charge for its access rates?

4 A. My understanding, though I'm not  
5 specifically conversant in that area of -- of laws and  
6 regulations, but my understanding is that Bresnan, at  
7 least currently, is limited to charging at parity with  
8 the incumbent LECs in each territory in which it  
9 operates, and that's been our policy.

10 Q. And so, for example, in areas where -- where  
11 you're competing with Qwest, do you charge the same  
12 access rates as Qwest?

13 A. It may not be structured the same, but it  
14 results in a comparable -- it's at a comparable --  
15 actually, I believe in most places it is structured  
16 exactly the same, and it is at parity, but there may be  
17 places subject to different State law where there's a  
18 different prescribed structure that results in the same  
19 charged rate for the functions provided.

20 Q. And so if I understand you correctly, there  
21 may be different rate elements, but the ultimate  
22 rate --

23 A. They all add up the same.

24 Q. Okay.

25 And do you -- does Bresnan do any analysis

1 on the costs to provide service in that area, or do you  
2 simply rely on the incumbent carrier's rate, and match  
3 that rate?

4 A. We -- we rely on, and we set rates at parity  
5 with the incumbent carrier.

6 Q. Okay. If I could have you turn to Section 6  
7 of the general terms and conditions.

8 As is located on page four.

9 A. Yes.

10 Q. In that section you have provided a  
11 substantial change to the assignment provisions  
12 suggested by UBTA UBET. My primary concern in that  
13 section is you indicate that, in the second sentence,  
14 "notwithstanding the foregoing, either party may  
15 assign or transfer this agreement to a corporate  
16 affiliate or an entity under its common control."

17 What do you consider to be under common  
18 control? I don't believe that term is defined in this  
19 agreement.

20 A. I would -- essentially be an affiliate.

21 Let me see what the -- if affiliate is  
22 defined. Let me just look at that definition.

23 This paragraph was cribbed without -- I  
24 believe without modification from the current Qwest  
25 Utah SGAT, and which had been thoroughly litigated in



1 the State, is my understanding. So we felt that that  
2 was safe usage here.

3 Oh, still have the meaning as set forth.

4 But the -- essentially the point of that  
5 sentence is that if you have an operating company that  
6 may get rolled up into a, you know, into a larger  
7 affiliate, you know, or a parent, that the agreement  
8 would not be terminated for that point. Because it's  
9 still essentially the same entity, operating entity,  
10 even if the legal entity is -- is -- you know, is  
11 changed.

12 And that's -- that's -- this kind of  
13 provision is typical in almost -- in most of the  
14 interconnection agreements that we've seen.

15 Q. Okay. And turning the page now to page five  
16 of the General Terms and Conditions. I want to turn  
17 your attention to Section 8. This is a section that  
18 you added to the agreement.

19 A. Mm-hmm.

20 Q. And it -- and additionally, on the stand  
21 here earlier you suggested that one of the criteria for  
22 modifying the agreement overall was to adopt standard  
23 practices.

24 And my question to you is, what -- we're  
25 not -- UBTA UBET is not entirely sure what standard

1 practices you're referring to.

2 There's telecommunication standards, there's  
3 other standards for VoIP carriers. And we just want to  
4 make sure that everybody is talking about the same  
5 standards here. And what standards are you referring  
6 to here?

7 A. We would be talking about interconnection  
8 standards, standards relating to LNP. Standards for  
9 establishing trunk groups between interconnecting  
10 telecommunications carriers.

11 And, again, this is -- this is a provision  
12 that you see in -- frequently in interconnection  
13 agreements.

14 Q. And -- and having said that, out of the  
15 interconnection agreements that Bresnan has entered  
16 into, how many are governed solely by State law?

17 A. So far as I know, none.

18 Q. Okay.

19 And you had indicated that the -- the  
20 benefit for having industry norms is that they're easy,  
21 they're defined, they're worked out, and they're  
22 standards. And, again, I'm just wondering where --  
23 where would we look to?

24 For example, would we look to the ATIS  
25 standards? Or would we be looking to CableLabs, since

1 this is a provision of cable service? Do you have a  
2 specific set?

3 A. Well, the CableLab standards don't establish  
4 any standards as far as I know for interconnection of  
5 trunk groups the way we're -- you know, the  
6 interconnection of -- of trunk works for the  
7 transmission of voice traffic, you know, PSD and voice  
8 traffic. CableLabs may develop such standards in the  
9 future, but at this time, you know, the standards that  
10 we're talking about are things designed by ATIS,  
11 defined by Telcordia, et cetera.

12 And, in fact, the agreement, you know,  
13 portion of the agreement, and I don't recall the exact  
14 section, you know, states very clearly that the trunk  
15 groups, for instance, will be provisioned according to  
16 the formats, I believe you find either by ATIS or  
17 Telcordia. Actually, by Telcordia. And I believe --  
18 and that would be appropriate. You know, and we  
19 haven't altered that, and that would be the reference  
20 standard.

21 Q. Okay.

22 And if you will now turn to Section 34 of  
23 the General Terms and Conditions.

24 Again, this is a section that was not in  
25 UBTA UBET's proposed agreement, and it is a section

1 added by you regarding subcontractors.

2 My question is, who do you plan -- what do  
3 you plan to subcontract? What services do you plan to  
4 subcontract?

5 A. We typically purchase transport facilities  
6 from a variety of different entities.

7 We typically contract with outside entities  
8 for, you know, things like LNP, SS7. You know, which  
9 is industry standard practice.

10 And I just -- you know, we wanted to make  
11 clear that there would be no restriction. I assume  
12 UBTA UBET does much the same thing. They probably  
13 contract with one of the major SS7 providers, or SS7  
14 networking, as we do. We probably each work through  
15 one of the various LNP service order companies to input  
16 data into the NPAC, et cetera.

17 Q. And what about with regard to customer  
18 service? Would that be something you'd subcontract?

19 A. No.

20 Q. What about installations?

21 A. No. We typically don't do that.

22 Q. Plant construction?

23 A. Yeah. I mean, depends. I mean, you know,  
24 we don't -- you know, we -- I don't -- I don't honestly  
25 know, actually. I'm -- you know, in some cases there's

1 no doubt that we -- you know, we're going to hire  
2 experts to do various things for us.

3 Q. Is there anything else in other  
4 jurisdictions that you, as you sit here today, that you  
5 can think of that you may have subcontracted out that  
6 we haven't already been over?

7 A. Where we are directly interconnected, you  
8 know --

9 Well, you know, you subcontract on a myriad  
10 of things. Operative services. Directory. Directory  
11 assistance. Et cetera.

12 You know, in some cases we have -- not --  
13 wouldn't be applicable to this agreement, because  
14 they're a direct party to this agreement, but in other  
15 cases we have, in certain jurisdictions, we've  
16 subcontracted for a third-party to provide the  
17 switching fabric for our services. But in that case  
18 that party has its own separate CPCN certificate of  
19 service, and, in fact, is the interconnection -- you  
20 know, has their own Interconnection Agreement and  
21 manages that directly.

22 We wouldn't have a third-party manage the  
23 interconnection of this -- under this agreement.

24 Q. Okay.

25 Moving on to the glossary now, in

1 Section 2.8.

2 Actually, it would -- it was Section 2.9.  
3 The definition of certificate.

4 You had deleted that definition, and I'm  
5 just wondering what -- why.

6 A. This was one where I did a -- you know, one  
7 of those in Word you do the automated find, and didn't  
8 find it come -- find this term come up anywhere.

9 Q. Okay. So it was -- I believe, if you look  
10 at the beginning, it was in the recitals, but you had  
11 deleted that.

12 A. Right. Because the new recital that I  
13 had -- the way I re-worded it, didn't use the term  
14 certificate, just used the broader discussion that --  
15 that, you know, inherent in that is that we have been  
16 certificated, but it doesn't use the term.

17 Q. And do you have an understanding of what  
18 VoIP service is?

19 A. I have -- I'm -- I have an understanding --  
20 I know what the term is, and I know that it has a lot  
21 of different meanings, you know.

22 It -- at a very general high level it would  
23 refer to any voice service that's -- that's provided  
24 using internet protocol somewhere in the provision of  
25 that service, but, as you get very specific as to how

1 and where that internet protocol technology may -- may  
2 operate, you have various -- you know, a lot of  
3 different variations.

4 Q. And as you understand it, the higher level,  
5 is VoIP service a service that Bresnan is going to be  
6 providing in the Vernal exchange?

7 A. Well, VoIP is a technology. We don't -- I  
8 wouldn't define it as a service.

9 We're providing voice services. We have  
10 VoIP technology in our network.

11 Q. And you will be using VoIP technology in the  
12 provisioning of the voice service in Vernal?

13 A. Yes.

14 Q. Okay.

15 Okay. If I could have you turn to  
16 Section 1.4 of the Interconnection Attachment.

17 A. Okay.

18 Q. Does Bresnan intend to promote ISP-bound  
19 traffic?

20 A. No.

21 Q. My question to you is, then, you've deleted  
22 that language from 1.4. Why did you delete that?

23 A. Because here, this was an example of what I  
24 was talking about. That's basically saying Bresnan  
25 isn't going to do such and such a thing, or doesn't do

1 it, isn't going to do it. And that's irrelevant to the  
2 interconnection. The terms of the interconnection are  
3 that if either party provides this traffic, we'll have  
4 ways to treat it.

5 And it would be inappropriate, in our  
6 opinion, for an Interconnection Agreement to restrict  
7 the activities of one party -- or of either party,  
8 where those activities may be, you know, appropriate,  
9 or legally permissible.

10 So, in that case, while we have no  
11 intention, you know, of -- it would be contrary to our  
12 business plan, probably, to offer that, you know, to --  
13 to sell that service; on the other hand, we are  
14 providing service. You know, we're -- we're under --  
15 as we said earlier, we're a telecommunications carrier.  
16 We can't discriminate.

17 If we provide services in the exchange and  
18 an ISP wanted to buy a PBX trunk from us and connect it  
19 to a modem, you know, we might -- we probably wouldn't  
20 know, but even if we did know, we wouldn't like the  
21 idea of it, but we can't really say no.

22 Q. And so it is your position that the document  
23 itself provides a penalty or a -- has a consequence for  
24 that type --

25 A. It has a treatment. It's not necessarily a



1 consequence, it's that this type of traffic will be  
2 dealt with in this way. And -- and it's the way that,  
3 you know, has been proposed by -- by UBTA UBET.

4 Q. Turning now to section -- Section 2.2.

5 And this is a section that you had modified  
6 this morning.

7 A. Mm-hmm.

8 Q. What I wanted to ask you about is -- maybe  
9 you crossed it out.

10 You've crossed it out. So we can move on  
11 from that one.

12 A. I'm --

13 Q. The question that I had relates to the  
14 sentence that you crossed out, so I no longer have that  
15 question.

16 A. Okay.

17 Glad to help.

18 Q. Thank you.

19 Let's see. In Section 2.3, you had crossed  
20 out -- and this is, again, at the Interconnection  
21 Agreement, page 3.

22 You had crossed out the sentence, "Bresnan  
23 provides public telecommunications services, as defined  
24 under Utah Code, under this agreement to end-user  
25 customers directly."

1                   Are you denying that Bresnan provides public  
2 telecommunications services to end users directly?

3                   A.   No.  I'm not denying -- I'm not making any  
4 commentary on that whatsoever.

5                   I'm just saying that that's not an  
6 appropriate statement for this -- for this provision or  
7 any provision here.

8                   We've sent the whereas clauses that we're a  
9 telecommunications corporation under the State law.  
10 What we're talking about here is -- is transit fees.

11                   That has nothing to do with -- with, you  
12 know, what kinds of services we may be provided.

13                   Q.   Okay.

14                   Now turning your attention to Section 3.1 of  
15 the Interconnection Attachment.

16                   A.   Yes.

17                   Q.   And I'd like you to bear with me.  I've got  
18 a series of questions here to try and understand  
19 Bresnan's facilities, and the call path, and how that  
20 will all pencil out in Vernal.

21                   A.   Mm-hmm.

22                   Q.   It's my understanding that you have coax  
23 facilities that terminate at your head end in Vernal.  
24 Is that correct?

25                   A.   That's -- that's -- well, it's either coax

1 or hybrid fiber coax, but yes. They're basically plant  
2 going out to the end user premises in Vernal that all  
3 come back to the head end.

4 Q. And is the Bresnan data separated from the  
5 video signal in Vernal?

6 A. I have to think this through for a second.  
7 My understanding of that work map.

8 No. To the extent that the voices -- well,  
9 currently there's no voice in Vernal, because we  
10 haven't been able to operate under our CPCN for the  
11 last year.

12 But when we do initiate service there, when  
13 we finally have an interconnection in place, the -- my  
14 understanding is that the traffic from the end-user  
15 customers will come into Vernal, go out from Vernal  
16 over our backbone network to our regional facility in  
17 Grand Junction, Colorado. And at that point, the end  
18 voice will go their separate ways.

19 Q. And currently you do provide data and video  
20 in --

21 A. Data and video, yes.

22 Q. And do those get separated in Vernal, or do  
23 they both travel back to Grand Junction?

24 A. Data and video separate in video. Video's a  
25 different -- is a different operating structure all

1 together.

2 Q. Okay. And I believe your testimony was when  
3 voice is implemented, the voice traffic will be  
4 separated from the data in Grand Junction. Is that  
5 correct?

6 A. Initially that's what we expect, yes.

7 Q. And you indicated that that would be over  
8 your backbone. Is that correct?

9 A. Yeah. Leased facilities between Vernal  
10 and -- the Vernal head end and the Grand Junction  
11 facility.

12 Q. And is that a facility that you already have  
13 in place?

14 A. That is a -- it is -- well, it's a facility,  
15 it's a set of facilities that we lease. They are not  
16 TDM facilities. They're not capable of providing a  
17 trunk interface to an external carrier. That's all  
18 going back as IP.

19 Would you like some clarification on what  
20 that means?

21 Q. That would be great.

22 A. Okay.

23 In the public switch telephone network, the  
24 traditional telephony traffic is transmitted under  
25 what's called TDM, or time division multiplex. That's

1 the traditional telephone network protocol for voice  
2 traffic, you know, within traditional telephone  
3 networks and for hand-off between traditional telephone  
4 networks.

5 The transmission facilities between Vernal  
6 and Grand Junction today are not -- don't have anything  
7 peeled off for TDM. It's a -- essentially a single IP,  
8 internet protocol pipe between Grand Junction and  
9 Vernal, that connects to the end-user facilities at  
10 that point.

11 When we get -- you know, when we reach the  
12 threshold for direct interconnection, we will at that  
13 time put in a separate facility -- trunk group  
14 essentially, back to Vernal, to provide the -- the  
15 interface to UBTA UBET. That will be a TDM interface,  
16 and that would be the appropriate interface to  
17 interconnect these trunk groups.

18 If, in the future, UBTA UBET created their  
19 own IP interface, we would certainly be amenable to  
20 discussing that. But that's not what this agreement  
21 provides for, and so --

22 Q. Forgive me if you've already answered this,  
23 but you indicated that currently the data is separated  
24 from the video signal in Vernal.

25 A. Right.

1 Q. Okay.

2 And that's what we were --

3 A. Mm-hmm.

4 Q. -- just discussing.

5 Now, then, the data goes on to  
6 Grand Junction?

7 A. The data and the video -- the video is, you  
8 know, it comes in over the coax, and, you know, as  
9 radio frequency. And so that goes right there into the  
10 head end, where it's got the -- my recollection is --  
11 I'm not clear, but I believe Vernal has its own, sort  
12 of extension, for receiving the video signals. That's  
13 an entirely different technology than the voice end  
14 data.

15 Q. Okay.

16 So now let's walk through, in the future.  
17 And if you -- when you get the voice up, can you  
18 describe for me how the call path will go on Bresnan  
19 facilities, or on any facilities, when a call comes  
20 from a Bresnan customer to another Bresnan customer in  
21 Vernal?

22 A. When it goes from a Bresnan customer to a  
23 Bresnan customer in Vernal, what happens is that the  
24 signal of that call goes to Grand Junction.

25 But the actual call contact won't go to

1 Grand Junction, because the signaling will tell the --  
2 you know, will tell a router, an internet protocol  
3 device sitting in Vernal, to send the call off to  
4 another Vernal customer. So the actual call content  
5 will stay right there. So that would be for Bresnan to  
6 Bresnan customer.

7 Q. And my next question is, if you're calling a  
8 Bresnan customer in Vernal to a UBTA UBET customer in  
9 Vernal, how does that call path?

10 A. That call path, the call would come into the  
11 Vernal head end. Would be carried as part of the  
12 backbone stream to Grand Junction.

13 At Grand Junction it would go into our --  
14 you know, our switch for -- gateway in Grand Junction,  
15 and then would come out the other end as a TDM -- a  
16 trunk appearance. And we would carry that back, as  
17 we're proposing initially, to a tandem that we would  
18 have interconnection to, and transmit the call through  
19 the tandem back to -- via the tandem that UTBA UBET is  
20 also connected to. And then they would -- the call  
21 would then be delivered to the Vernal switch, after we  
22 had hit the threshold for direct interconnection, we  
23 would have a direct trunk appearance, we would bring it  
24 back to Vernal and hand it off to -- via a separate TDM  
25 facility, and hand it off to UBTA UBET in Vernal.

1                   We had initially proposed that the -- that  
2                   the POI be at a mutually agreeable spot. UBTA UBET  
3                   subsequently proposed that the POI be our head-end. We  
4                   have no problem with that. So that's apparently where  
5                   it will be.

6                   Q. And the tandem that you referred to  
7                   previously, that would -- Bresnan's suggestion is that  
8                   would be the Provo -- the Qwest Provo tandem?

9                   A. The way we've written the agreement, it says  
10                  a -- a third-party tandem to which we are both  
11                  connected.

12                  Currently it's my understanding that UBTA  
13                  UBET, they're -- the Vernal switch subtends two  
14                  tandems; a Qwest tandem in Provo and a UFN tandem in  
15                  Salt Lake City.

16                  We -- we know that we have, in -- we're  
17                  going to have a separate requirement to -- operational  
18                  requirement, not -- not necessarily legal requirement,  
19                  but operational requirement to connect to the Provo  
20                  tandem. So, in that case, that tandem would qualify,  
21                  because we'd both be connected to it.

22                  We have not operationally determined yet  
23                  whether we might have a business or operational need to  
24                  connect to the UFN tandem. If we did, you know, and  
25                  if -- you know, interconnection to that tandem was



1 provided to us on non-discriminatory terms, you know,  
2 we -- that might also be an option.

3 Q. Okay. So in the call path that we just  
4 described, from a Bresnan customer in Vernal to a UBET  
5 customer in Vernal, describe for me, when you send the  
6 call to Grand Junction, who pay -- Bresnan will pay for  
7 that portion of that transport?

8 A. That's our backhaul network, yes.

9 Q. And then when the call -- then the call will  
10 go to the Provo tandem, as you suggested?

11 A. Mm-hmm. If it goes to the Provo tandem.

12 Q. Or Salt Lake?

13 A. Yeah. Or -- wherever the tandem is, Bresnan  
14 would be -- would have to maintain all of the  
15 connectivity up to the tandem.

16 Q. Okay. So Bresnan would pay for that --

17 A. Mm-hmm.

18 Q. -- portion.

19 And then from the tandem where both parties  
20 are, to the Vernal switch, who would pay for that  
21 portion of the call?

22 A. Well, the transiting portion would be the --  
23 through the tandem, up to the point of interconnection  
24 between the tandem provider and UBTA, the tandem  
25 provider would bill -- if it's the call that originated

1 from a Bresnan customer, the tandem provider would bill  
2 Bresnan for that transiting function, and then, at that  
3 point, to the point of hand-off to UBTA UBET, that  
4 would be UBTA UBET's backhaul.

5 Q. Okay.

6 A. And would, you know, either be subject to  
7 bill-and-keep, or would be subject to -- if we were out  
8 of balance -- to reciprocal compensation.

9 Q. And you had indicated, in the first example,  
10 Bresnan to Bresnan call, that the call data actually  
11 would not go to Grand Junction. The signal. It would  
12 go there for signaling, but the call data would not?

13 A. The call content. That's my understanding.

14 Now, having said that -- having said that,  
15 I'm not a -- a -- you know, an engineer, and so that's  
16 my understanding.

17 But I should clarify that that's -- you  
18 know, that's -- on that one point, that that's not  
19 substantive. On these other points, I do know how the  
20 interconnection works. I'm a little bit hazy on how  
21 the traffic within Bresnan to Bresnan might always  
22 function.

23 Q. Okay. Now let's -- let's walk through a  
24 toll call.

25 When the Bresnan Vernal customer who makes a

1 call -- a toll call to Salt Lake City, can you describe  
2 that call path for me?

3 A. Sure.

4 The way it would probably work, you know,  
5 toll and long distance is a very broadly -- you know,  
6 there are a lot of third -- you know, wholesale  
7 providers out there.

8 But what we typically do, in that case, is  
9 the call would come from the Bresnan customer to the  
10 Vernal head-end, be back hauled to Grand Junction, in  
11 this case, and would then be handed off to a  
12 long-distance carrier, who would terminate the traffic.

13 You know, whether it's end -- you know, in  
14 this case we would likely hand off everything, you  
15 know, that's not -- you know, that's not local or EAS  
16 would just get handed off to -- handed off to -- you  
17 know, a long distance -- underlying long distance  
18 provider who would terminate the call anywhere in the  
19 world.

20 Q. Okay.

21 Is it -- would it be technically feasible  
22 for a call from Bresnan -- a Bresnan customer in Vernal  
23 to a UBTA customer in Vernal, would it be technically  
24 feasible for that call to remain -- that call content  
25 to remain in Vernal and only send the signaling to

1 Grand Junction like you did for the Bresnan calls?

2 A. No, because we don't have gateway facilities  
3 for hand-off to TDM in UBTA UBET. Those gateway  
4 devices, you know, essentially the trunking the TDM  
5 trunking interface, don't really scale to that size.

6 Now, some day, you know, if -- if -- you  
7 know, if -- as those devices scale down, and as our  
8 business in Vernal scales up, that may be -- you know,  
9 that may be something that we would do.

10 But just to be clear here, this is no  
11 different than the way CLECs have operated since the  
12 early '90s. Before the Act.

13 In my early experience with teleport  
14 communications groups and PPN telecommunications  
15 companies to the first major CLECs, we typically  
16 dropped a standard telephone switch, a loosened 5ESS or  
17 a Northtel DMS 100 or 500, into a centralized regional  
18 location, and might serve multiple markets in multiple  
19 LATAs, you know, even in multiple states from that  
20 single switch. And we would backhaul -- you know, have  
21 a POI in each LATA, or market, but everything would be  
22 going back to the switch.

23 And that's just standard CLEC operating  
24 procedure. The use of an IP technology in place of the  
25 traditional TDM technology doesn't really alter that.

1 Q. Okay.

2 Now turning your attention to -- let me  
3 check here. -- 3.4.2.4.1.

4 A. I don't see that here.

5 Q. It was -- it's on page six. And this is the  
6 section that you had discussed this morning. It -- the  
7 3.4.2.4.1 is red-lined out.

8 A. I think it's the new Section 3.4.4.

9 Q. Yes. That's correct.

10 I want you to skip down to the bottom of  
11 that section. And you had -- the question that I have  
12 for you is it says, the last sentence of that paragraph  
13 says, all other traffic non-local non-EAS and  
14 non-ISP-bound, shall be completed on separate  
15 service -- services or trunk groups as required by  
16 applicable law.

17 And I'm -- I'm wondering what applicable law  
18 you're referring to there.

19 A. Well, as it stands right now, we would  
20 expect that anything that's not fitting in those three  
21 categories would likely need to be terminated, you  
22 know, via switched access or -- well, that's probably  
23 it. There may be other -- you know, I'm not -- I can't  
24 think of any other traffic types that would be probably  
25 not terminated via switched access, but there may be

1 something that -- if there was a large -- well, no, 800  
2 might terminate to a -- to a dedicated 800 customer,  
3 but.

4 But whatever the -- whatever the  
5 appropriate, you know, requirements are. For the vast  
6 majority of traffic, we're talking that it would go out  
7 over a long -- you know, might even go directly over to  
8 a direct switched access, and might go over a long  
9 distance carrier to a switched access.

10 Q. And you're saying, "whatever the applicable  
11 requirements are," you're referring to specific  
12 requirements? Utah law requirements?

13 A. Well, only insofar as it may be Utah  
14 intrastate traffic. If it's in interstate traffic, it  
15 would be Federal requirements.

16 Q. Okay.

17 A. The point is the agreement would not --  
18 would not abrogate any -- any requirements that  
19 currently exist at whatever level the traffic --  
20 whatever jurisdiction the traffic would fall into.

21 Q. Okay. Turning to Section 5.4 of the  
22 Interconnection Agreement.

23 A. Mm-hmm.

24 Q. Do you have any wireless carriers directly  
25 connected? Does Bresnan have any wireless carriers

1 directly connected?

2 A. Not to my understanding in Utah.

3 We may -- we may have -- we -- no. As far  
4 as I know, we have -- we sell wholesale LD termination  
5 to some wireless carriers in other markets, but that's  
6 it.

7 Q. Okay.

8 And I'm sorry, I need to go back to Section  
9 .2. It's actually on the same page.

10 A. Oh.

11 Q. Let's see. You had deleted UBTA UBET's  
12 references to VNXX traffic. Does Bresnan intend to  
13 exchange VNXX traffic?

14 A. We don't -- we don't provide services today  
15 that make use of VNXX, or FX, or anything like that.  
16 It's not part of our current business plan.

17 But here again, the point here is that we  
18 should be addressing if either party provides  
19 traffic -- provides a service that assigns an NPA-NXX  
20 outside of the rate center, we have the provisions here  
21 that says, Here's how that traffic will be dealt with.  
22 It's not that we're going to say, Well, one party can  
23 do it but the other party can't. It's -- the law will  
24 define what the parties can do.

25 All the Interconnection Agreement should be

1 concerned about is if you do something that meets this  
2 criteria, here's how the Interconnection Agreement will  
3 deal with that traffic. And I think that's fair, and  
4 balanced, and reasonable for both -- for both parties.

5 Q. Okay.

6 Okay. Go ahead and look at Section 2 of the  
7 Ancillary Services Attachment. Which is on page four  
8 of the Ancillary Services Attachment Agreement.

9 THE WITNESS: Excuse me. Can I pause for  
10 just a second?

11 I'm sorry. I just want to stand up for just  
12 a moment.

13 MS. SLAWSON: And I don't have a problem.

14 MR. NELSON: And I don't have a problem if  
15 you want to stand and answer the questions.

16 ADMINISTRATIVE LAW JUDGE: Do you want to  
17 take a five-minute break?

18 MS. SLAWSON: That's fine.

19 (Whereupon, a break was taken.)

20 ADMINISTRATIVE LAW JUDGE: Let's go back on  
21 the record.

22 Before moving forward, I have a couple of  
23 questions to go back to.

24 We were talking about trunk groups, and in  
25 your -- in your opening, or your direct examination,



1 you indicated that one of the substantive changes that  
2 you had made, I believe, was to allow a separate trunk  
3 group for local EAS and IP traffic. Is that correct?  
4 Do I have that correct?

5 A. That the -- that the direct trunk -- that in  
6 a direct interconnection, the trunk group for local EAS  
7 and IP-bound traffic would only carry that traffic.  
8 There would be no other traffic co-mingled with it.

9 Q. Okay.

10 A. As defined in the agreement.

11 Q. Okay.

12 And let's see. I wanted to go back one more  
13 time on the --

14 Are the services that you're going -- that  
15 Bresnan is going to provide under this Essential  
16 Facilities Agreement, are they retail public  
17 telecommunications services?

18 A. They are. I believe so. I mean, I -- you  
19 know, there may be a term-of-art there that I'm not  
20 familiar with, but, yes, they are retail services  
21 provided to end-user customers in -- in Vernal.

22 Q. Okay.

23 And my concern is that there's several  
24 deletions that Bresnan has made, where -- where UBA has  
25 referred to the services as being public

1 telecommunications services and -- and I just wanted --  
2 if could you give me a general reason why those  
3 deletions could be made.

4 A. Could you point me to a deletion?

5 Q. Yes.

6 Let's see.

7 Bear with me just a second.

8 A. Mm-hmm.

9 MS. WIMER: 2.3.

10 MS. SLAWSON: Let's see. Let's take a look  
11 at 2.3 --

12 MS. WIMER: Of the Interconnection  
13 Agreement.

14 THE WITNESS: Actually, if I could respond  
15 just generically to the -- to the --

16 The reason is is because if you look in the  
17 glossary attachment, in the definitions of local  
18 service traffic and end-user customer, you'll see that,  
19 by definition, local service traffic is traffic that  
20 org -- is included -- is "any call, including  
21 IP-enabled traffic, that originates from an end-user  
22 customer of one party, physically located in one  
23 exchange, and terminates to an end-use of the other  
24 party, physically located in either the -- in the same  
25 exchange." There's an extra word there. "As

1 clarification . . . local traffic does not include  
2 traffic that originates from or is directed to or  
3 through an ISP or traffic originated or terminated to  
4 wireless carriers."

5 And then an ISP traffic and NSP traffic, I  
6 believe is, again, uses that reference end user  
7 customer, and the definition end user customer says,  
8 "Residents or business subscriber who is the ultimate  
9 end user -- the ultimate user of Local Exchange Service  
10 provided directly by either of the parties."

11 So in the very -- in the very definitions of  
12 the terms we're talking about, the principal you're  
13 concerned about is already well established. Is my  
14 read of those definitions.

15 So adding layers and layers of additional  
16 provisions that, you know, might not be worded  
17 identically to the definitions, which clearly establish  
18 what I believe UBTA is concerned about, and those  
19 definitions are your original definitions, I think we  
20 can just make -- make the agreement clear, streamlined,  
21 and avoid any future, you know, confusion or need for  
22 clarification.

23 Q. Okay. So it's not that you deny that you're  
24 providing those services, public telecommunications  
25 services, it's that you think that the agreement, as

1 drafted, was redundant to have those --

2 A. Yes. And, you know, I think you're  
3 better -- if you have a consistent set of definitions  
4 and use the terms consistently, you avoid future  
5 complications. That's -- that's how -- that's been my  
6 concerns in these kind of agreements in the past.

7 Q. Okay.

8 A. I'm sorry. I apologize. I did not mean to  
9 cut you off. I just --

10 Q. No.

11 A. It occurred to me what the rationale was.

12 Q. Going back to when we were discussing the  
13 call patterns.

14 A. Mm-hmm.

15 Q. And the call path, I mean. Can you describe  
16 for me what kind of facilities Bresnan currently has  
17 between Vernal and Grand Junction? What capacity that  
18 pipe is?

19 A. At the present time, I'm not sure.

20 I believe it may be a -- actually, I'm just  
21 not sure.

22 I know that we're up-sizing the facility,  
23 but as I said before, it is a dedicated internet  
24 protocol facility. So far as I know, there's no means  
25 in -- in Vernal to peel off a segment and hand it off

1 as TDM.

2 Q. And since you're not sure of the capacity,  
3 is that something that maybe on a break you could  
4 follow up on and --

5 A. Yeah, I could probably --

6 Q. -- get that information?

7 A. I may have it in my laptop.

8 Q. Okay.

9 A. Having said that, it's not really relevant  
10 to the agreement, because what we've -- you know, what  
11 we've -- the way we've drafted the agreement is that  
12 our backhaul behind the POI is our -- is our -- is our  
13 expense and our problem. You know, our issue.

14 In the same way that we've, you know,  
15 drafted the agreement to say that UBTA UBET's expense  
16 behind the POI is, you know, their responsibility.

17 And that's typical of -- of most -- of many  
18 interconnection agreements.

19 Q. Okay.

20 Moving forward through the agreement, let's  
21 see. Section 2 of the ancillary services. This is  
22 where we were before the break.

23 In Section 2 of this agreement, you added  
24 language to make this -- this provision reciprocal,  
25 which was one of your overriding criteria for the

1 agreement that you discussed earlier.

2 I wanted to know what -- what is your  
3 demarcation? You referred to a demarcation device,  
4 and I wanted to know what Bresnan's demarcation device  
5 referred to in this section would be.

6 A. In this section, we're probably referring to  
7 the -- you know, there's not always -- it varies by  
8 location, but there's typically a -- some kind of  
9 demarcation where the coax dropped to the house meets  
10 the coax -- the inside coax.

11 But that may change in the future.

12 Q. Okay. And you said it's -- and where would  
13 that be located? Inside the house or outside the  
14 house?

15 A. It's typically located outside the house.

16 Q. And how does the inside wiring connect --  
17 how would the -- the wiring from the inside of the home  
18 connect to your demarcation device?

19 A. The -- are you talking about the -- the  
20 copper -- you know, telephone plant inside --

21 Q. Right.

22 A. -- inside wiring?

23 Q. Right.

24 A. What we typically do is, at the point of  
25 entry -- at some point inside the -- if it's a home,

1 for instance, we put in a -- a -- what's called an EMTA  
2 media terminal adaptor that coax comes into it, that's  
3 inside the home.

4 And what we typically do is we then connect.  
5 That then has standard RJ 11 plugs to connect to house  
6 wiring, and then typically connected to the house  
7 wiring on the inside.

8 The only thing we would typically do, other  
9 than that, is to disconnect the house wiring from the  
10 telephone NID on the customer's side of the house  
11 wiring, with the customer's -- you know, at the  
12 customer's permission and direction.

13 Q. And is that, the NID that you're referring  
14 to, is that a Bresnan NID?

15 A. No, that would be the -- you know, the  
16 incumbent telephone company's NID.

17 Q. So you physically disconnect?

18 A. On the customer's side.

19 We don't -- you know, it's not our policy --  
20 it would not be our policy to disturb anything on the  
21 carrier's side of that NID, but on the customer's side,  
22 we would -- we're modifying the house wiring that --  
23 for which the customer is responsible.

24 Q. Okay. And how is the house wiring typically  
25 connected to the NID? Is it something that you have

1 to cut, or do you -- or is it a jack that you could  
2 just unplug?

3 A. I'm not familiar with -- with --  
4 You're talking about the incumbent telephone  
5 company's NID?

6 Q. Right. You were talking about you would  
7 disconnect the wiring on the customer's side. Are you  
8 familiar with --

9 A. It depends. If there is a -- you know, if,  
10 inside the house, the wiring comes from the NID into  
11 the house, and there's, say, a -- you know, a  
12 punch-down jack or something like that, you know, we  
13 may just remove it or unscrew it at that point.

14 We may clip it. We may clip it, you know,  
15 if it's on the outside, and there's a cut -- there's a  
16 clearly defined customer side, we may clip it at that  
17 point.

18 Q. And if it was capable of being unplugged, do  
19 you still cut it or do you unplug it?

20 A. No. If it's capable of being unplugged, and  
21 it's appropriate to access it, you know, it's available  
22 for customer access, we would probably just unplug it.

23 Q. Okay.

24 A. And this -- as I -- you know, this is not,  
25 you know, different from how CLECs delivering their own



1 drop facilities to business, or in some cases  
2 residential customers, have ever operated.

3 Q. Previously in your testimony you had  
4 indicated that -- that Bresnan's typical procedure in  
5 determining access rates is to mirror the rates of the  
6 incumbent. Is that correct?

7 A. That's -- that was my testimony, yes.

8 Q. And is that something that Bresnan would be  
9 willing to commit to in this Interconnection Agreement?  
10 That you would mirror the rates of the incumbent  
11 provider?

12 A. Well, that's our policy. And everywhere  
13 where we operate, I believe that's the law. So I'm not  
14 sure why adding that to an agreement is necessary.

15 If the law were to change, I don't think it  
16 would be appropriate to limit one party to operate --  
17 you know, to require one party to operate in a way that  
18 would be more limiting than the law would require, and  
19 not to limit the other party in a similar way.

20 Q. Well, except if the other party raised their  
21 rates, then your rates would also go up. Is that  
22 accurate?

23 A. Sure. Well, not necessarily. You know,  
24 it's -- I --

25 You know, the point is that each party

1 should -- to the extent that they have access rates,  
2 should charge a lawful access to each other.

3 Now, according to the testimony I believe  
4 that UBTA UBET has offered, in fact they would never be  
5 purchasing access from us, because they don't terminate  
6 anything other than local and EAS. All their toll  
7 traffic goes off -- is pre-subscribed to third-party  
8 long distance customers. So having a commitment from  
9 us on access that would be, you know, beyond what the  
10 law already requires, wouldn't seem to be necessary.

11 Q. But is it -- would it be something that you  
12 would be agreeable to?

13 Because in this situation, if you're saying  
14 it's your policy and your procedure, and there's no --  
15 assuming there was no limitation --

16 Bresnan doesn't file tariffs, do they?

17 A. Depends on the state jurisdiction  
18 requirements. We do file tariffs -- we have a Federal  
19 tariff, we have tariffs in states that require them.

20 Q. Do you have a tariff in Utah?

21 A. I'm not -- I don't believe so, but that  
22 would have to be subject to check.

23 Q. I mean --

24 A. At present, we're not operating directly in  
25 Utah, so.

1 Q. So as I understand your testimony today,  
2 while your customary practice would be to mirror the  
3 incumbent's access rates, you're not willing to put it  
4 that -- that term in this agreement? Is that correct?

5 A. No. What I'm saying is is that, as a matter  
6 of law, we only charge lawful rates. And so that's  
7 the -- you know, we are committed to obey the law, and  
8 the law says that we will charge -- you know, we will  
9 charge what the law requires.

10 Q. But you don't want to limit it to the rate  
11 that the incumbent is charging?

12 A. Insofar as that's what the law requires, by  
13 default we're limited to that, but I wouldn't want to  
14 set that up as a separate requirement, you know, in an  
15 Interconnection Agreement.

16 Q. Okay.

17 MS. SLAWSON: If I could just have one  
18 moment, Your Honor.

19 ADMINISTRATIVE LAW JUDGE: Sure.

20 Q. (BY MS. SLAWSON) Okay. One last question.  
21 For now.

22 The access rates that we were just  
23 discussing.

24 A. Sure.

25 Q. Are typically, in this agreement, used as a

1 penalty. For example, if you -- if your -- if you send  
2 traffic that shouldn't be sent, then you will be billed  
3 the access rates. And given that it's used as a  
4 penalty, would you -- would Bresnan be willing to agree  
5 to limit it to the rates that UBET charges? In this  
6 agreement?

7 A. We can -- sure. You can make it -- you  
8 know, we can re-word it to say the highest rate charged  
9 by the originating carrier. So that if -- you know, if  
10 I -- you know, whoever is terminating it would pay  
11 their own access rate to the other -- the other  
12 company -- to the other entity. And that way it's --  
13 you know, and that way we're both safe. Or the highest  
14 rate that either carrier charges.

15 Q. Okay.

16 A. That would be the way to do it.

17 MS. SLAWSON: Thank you. We have nothing  
18 more at this time.

19 ADMINISTRATIVE LAW JUDGE: All right. Thank  
20 you, Ms. Slawson.

21 Mr. Mecham, any questions?

22 MR. MECHAM: Yes, Your Honor. Thank you.

23 CROSS EXAMINATION

24 BY MR. MECHAM:

25 Q. Good morning, Mr. Harris.

1 A. Good morning.

2 Q. We met this morning. I'm Stephen Mecham. I  
3 represent the Utah Real Telecom Association, of which  
4 UBTA and UBET is a member. But there are several other  
5 members as well.

6 Just a moment ago, in response to  
7 Ms. Slawson's -- one of Ms. Slawson's questions, you  
8 said that you haven't yet begun to provide services  
9 that would require the filing of a price list or a  
10 tariff? Did I understand that correctly?

11 A. Not an access tariff.

12 Q. You are providing digital phone service in  
13 Cedar City.

14 A. Right.

15 Q. Would --

16 A. That --

17 Q. Go ahead. I'm sorry.

18 A. That operation is -- I alluded to in one of  
19 my earlier answers, depending on the location and  
20 essentially when we initiated business, we have some  
21 operations that are provided through a -- we have  
22 subcontracted.

23 In that case, we are providing a service to  
24 the end users. You know, selling them service, but the  
25 underlying carrier is a third-party, who is also a

1 certificated CLEC, and has the Interconnection  
2 Agreement and tariffs governing that traffic in place  
3 with -- you know, they have an Interconnection  
4 Agreement with Qwest, and have their own tariffs in  
5 place governing non-local traffic.

6 Q. Okay. So the CLEC you're contracting with,  
7 I presume they have a price list?

8 A. Yes.

9 Q. On record with the Commission?

10 A. Yes.

11 Q. And were you the -- if you weren't in that  
12 subcontracting arrangement, but you were doing it  
13 otherwise, would you file a price list?

14 A. To the extent we're required to, yes.

15 We -- we're actually in the process of  
16 initiating parallel operations in that same market that  
17 would be provided directly, and so we are preparing to  
18 execute -- we have a CPCN for that area. We're  
19 preparing an Interconnection Agreement. And I'm not  
20 fully conversant with what the price list requirements  
21 are, but we -- you know, to the extent it's required,  
22 we're going to be filing them.

23 Q. I've never really -- even after the  
24 responses earlier this morning I still am not entirely  
25 clear what kind of service resident -- I mean, I

1 understand services are provided, but do you view them  
2 as regulated?

3 A. Well, some services are and some services  
4 aren't. Like any other provider, some of our services,  
5 you know, transmission services that we provide, you  
6 know, some of them are regulated, some are not. You  
7 know, you'd have to give me specific examples, but.

8 You know, to the extent that we're providing  
9 switched service access, we view that as regulated to  
10 the extent that any CLEC providing switched access  
11 service is regulated.

12 Q. Well, and I just -- the only reason I focus  
13 on that is voice-over-internet, for instance, there are  
14 a lot of people who take the position, and there are a  
15 lot of -- well, there are several anyway, several  
16 providers in the State who don't have CLEC  
17 certificates, as I understand it, and are providing it  
18 without that.

19 Does that reflect at all the way Bresnan  
20 services will be provided over the --

21 I mean, I know Ms. Slawson asked about  
22 whether or not they are voice-over-internet protocol  
23 services.

24 A. The --

25 Q. It's a murky area, I guess is what I'm

1 concerned about, and I don't know if what you're  
2 providing is regulated under State law.

3 A. Well, I would answer this way. We -- the  
4 services that would be subject to the Traffic Exchange  
5 Agreement, we believe are -- are telecommunications  
6 services under State law.

7 The reference to voice-over-internet  
8 protocol, internet -- voice-over-internet protocol is a  
9 type of technology. People use the term VoIP services  
10 to refer to a wide range of things, including things  
11 such as we internally refer to them as over-the-top  
12 services, where someone transmits voice services over  
13 the public internet.

14 That's not remotely what we do.

15 We use voice-over-internet protocol as a  
16 technology within our own network, but our -- it never  
17 traverses the public internet, so that in that sense  
18 it's just like traditional telephony.

19 And when we hand off to incumbent TelCos, or  
20 other carriers, we hand off in the standard PSTN,  
21 public switch telecommunications network, interfaces  
22 and protocols.

23 Q. So -- and I focus on the interconnection  
24 section of the law, and you've -- and you refer to  
25 the -- at least the rule of maybe the law as well in



1 your testimony, but your duty to interconnect only  
2 applies to -- to telephone corporations that are  
3 providing public telecommunications services as that's  
4 defined in the State law.

5 A. And I believe my prior answer was prefaced  
6 with the statement that the services that we provide,  
7 that will be originating or receiving traffic through  
8 this Interconnection Agreement, it's our position that  
9 they will -- they are telecommunications services under  
10 State law.

11 Q. Okay. Thank you.

12 And when you said that -- in several  
13 responses you talked about applicable law and so on.  
14 Are you talking strictly about the State law as opposed  
15 to the Federal law?

16 A. I'm talking about State law insofar as it  
17 deals with services that are being provided in the  
18 Interconnection Agreement.

19 There were a number of questions that  
20 Ms. Slawson addressed to me that had to do with  
21 jurisdictionally interstate traffic, and why references  
22 to that traffic had been changed to just applicable  
23 law.

24 Because jurisdictionally interstate traffic  
25 is not being dealt with in this agreement, and we say,

1 very clearly, that it's intrastate traffic,  
2 specifically three subsets; local, EAS, and ISP-bound  
3 traffic, that's, as defined, you know, originates and  
4 terminates within the local calling area, there's no  
5 need to reference those things. And so rather than  
6 saying, you know, what tariff it is, we just say it's  
7 pursuant to applicable law. It's not part of this  
8 agreement.

9 Q. You mentioned that you're not aware of any  
10 other agreement that's subject really to State law as  
11 opposed to the Federal law. Did I understand you  
12 correctly?

13 A. I -- yes.

14 Q. Is there -- do you view this agreement, this  
15 Essential Facilities Agreement as being different than  
16 an Interconnection Agreement?

17 A. Insofar -- only insofar as it's subject to  
18 State law jurisdiction. However, it deals with  
19 substance that's well defined in the industry. And so  
20 while it will be judged by State law, there's no reason  
21 that, when State law uses the same language and the  
22 same terms, that we should think that that means  
23 anything other than what is common industry practice,  
24 even though common industry practice may have been at  
25 least partially defined in the environment of, you

1 know, of some Federal law action.

2 But, in fact, the earliest interconnection  
3 agreements that I was personally involved with, were  
4 developed --

5 Actually, I must correct my earlier answer.  
6 The earliest interconnection agreements I was involved  
7 with were established purely under State law prior to  
8 the passage of the 1996 Act. I negotiated and executed  
9 two agreements, one with New York Tel in New York, one  
10 with New England Telephone in Massachusetts. One with  
11 Bell Atlantic. All of those companies no longer have  
12 those names anymore -- in Maryland.

13 One with Pacific Bell in California. That  
14 were all prior to the Act.

15 However, all of those contributed to and  
16 were virtually, you know, in most cases, very similar  
17 to, on the substance of how interconnection worked, to  
18 what -- what followed the Act.

19 And so, you know. The fact that agreements  
20 since the Act have, at least to my knowledge, have  
21 been -- I've only been familiar with ones that were  
22 under -- you know, governed under Federal law, doesn't  
23 mean that the substance was different, and shouldn't  
24 mean that the substance would necessarily be different  
25 here.

1 Q. Okay.

2 Is Bresnan currently connected to the Provo  
3 tandem?

4 A. No, we are not currently connected to the  
5 Provo tandem. We operationally will need to be, and so  
6 we expect to connect to that tandem. And by the time  
7 we would affect this interconnection, that would be an  
8 existing connection.

9 Q. And I just saw it yesterday, but your  
10 response -- and I think you've got it attached to what  
11 is marked as B2.

12 A. Mm-hmm.

13 Q. In your response to -- I think it's a  
14 Division data request.

15 A. Yes.

16 Q. When you calculated -- you made certain  
17 assumptions, and you made certain calculations, and you  
18 came up with certain numbers. And I'm curious. Were  
19 the costs to connect to the Provo tandem included in  
20 any of the calculations here?

21 How were they -- how were they accounted  
22 for, or were they?

23 A. It depended on the scenario. We looked at  
24 different levels of costs in the -- in the exhibit, but  
25 the -- scenario one, it was just looking at what the,

1 you know, direct -- you know, what the cash  
2 out-of-pocket for each carrier would be to exchange  
3 traffic between the -- via the Provo tandem.

4 In that case, we looked in the -- you know,  
5 using the VNH coordinates of the switches, of the  
6 Vernal switch and the Provo tandem, calculated the  
7 mileage, and then double-checked that against the  
8 mileage that's recorded in the NECA 4 tariff, which  
9 governs conductivity -- in part governs, you know,  
10 terms and conductivity between separate carriers, for  
11 instance end-offs and tandem switches. And then looked  
12 at the billing percentages also listed in that tandem,  
13 to, in scenario one, just determine what would be the  
14 transiting charge that Qwest would charge each of the  
15 parties for indirect interconnection.

16 In the second scenario, we went further and  
17 said, Okay. The first scenario was cash out-of-pocket,  
18 and the assumption there was that since we both have  
19 pre-existing -- by the time we would effectively have  
20 pre-existing connections to that tandem, that  
21 presumably would have capacity available, that, you  
22 know, in the first scenario, we just said we're just  
23 looking cash out-of-pocket.

24 The second scenario said, but if you wanted  
25 to go a little further and allocate the internal cost

1 of your -- of each party's conductivity to the tandem,  
2 you know, here's one way of looking at it.

3 Q. So scenario one doesn't include the costs  
4 that it would require Bresnan to put forward, and  
5 scenario two does?

6 A. Yes. Scenario one is -- just says what the  
7 cash out-of-pocket. What we would each be paying to  
8 Qwest.

9 Q. Assuming you're already connected.

10 A. Assuming we're already connected.

11 And we're going to have to connect to the  
12 Provo tandem for -- for various reasons. Aside from  
13 this.

14 Q. And so scenario two, then, does incorporate  
15 your costs of actually interconnecting with the Provo  
16 tandem?

17 A. Scenario two says, If we took our -- our --  
18 you know, went out to a vendor and said, you know, what  
19 would it cost us for the facility between our switch  
20 and the Provo tandem, and then said, well let's divide  
21 that by minutes and allocate that. Because it was be a  
22 common trunk group for that traffic and other traffic,  
23 which is typical of any connection to a tandem.

24 And on the -- and that's how we came up with  
25 what we said, well our allocated expense for that

1 component.

2 On the UBTA UBET side, we really didn't --  
3 you know, we didn't know that number, but we could look  
4 at numbers in the Qwest SGAT as a proxy for that, and  
5 apply those mileage numbers to the mileage -- transport  
6 mileage on UBTA UBET's com trunks.

7 Q. Do you know if Qwest -- does Qwest have a  
8 transiting tariff, or is it in its SGAT?

9 A. It's in its SGAT. I don't know if they have  
10 a transit tariff. I do know they have it listed in  
11 their SGAT.

12 Q. And as far as what is technically feasible?

13 A. Mm-hmm.

14 Q. What do you typically include as necessary  
15 to determine that something is technically feasible?

16 For instance --

17 No, go ahead. You were going to say  
18 something?

19 A. No, you go ahead.

20 Q. No, you first.

21 A. No, I insist.

22 Well, typically what you see is technically  
23 feasible is are the, you know, facilities available.  
24 You know, can they be configured, you know, without  
25 significant expense or hardship.

1                   Clearly, it appears that these are  
2                   common-type trunk groups between the Vernal switch and  
3                   the Provo tandem.

4                   My experience has been that, you know, this  
5                   is probably nothing more than a translations, you know,  
6                   in -- in the Vernal switch. And for that matter,  
7                   translations are done every day. And any time you add  
8                   a trunk group, whether it's for direct or you add a  
9                   traffic time for indirect, it's the simple matter of  
10                  updating the translations in the switch. To say point  
11                  traffic to this LRN, or this thousands group in this  
12                  location or this location.

13                  Q.    Insofar as your indirect interconnection is  
14                  concerned, you say that's very common.

15                  A.    Mm-hmm.

16                  Q.    Why start with that?

17                  A.    The typical reason is is because it's easy,  
18                  and quick, and inexpensive for both parties.

19                  Because if, you know, the general assumption  
20                  is -- and I -- and I expect it's true in this case  
21                  especially as well.

22                  Is that you have existing trunk groups  
23                  already established. They have available capacity. So  
24                  the only expense is the transiting charge.

25                  Establishing new trunk group means



1 establishing a new physical hardware interface on your  
2 network, and in -- and potentially configuring a new  
3 transmission path that doesn't exist today. There may  
4 be an underlying facility, but you're still configuring  
5 a transmission path.

6           It's very -- you know, you're still going to  
7 have to do the same translations. So if one -- if one  
8 method is simply translations and the other method is  
9 hardware -- excuse me, is -- is, you know, a new  
10 hardware interface plus translations, you know, it's  
11 typical to go the easiest route, the quickest route.

12           And, in fact, we've done this -- we have  
13 interconnections, for instance, in Colorado, with  
14 Century Tel, where we are exchanging local -- not EAS,  
15 but actually local traffic, because we're directly  
16 competing with them in that market. But we're both  
17 completing that traffic through a Qwest tandem, because  
18 we're below the 512 CCS threshold for direct  
19 connection.

20           It was to their advantage, it's to our  
21 advantage.

22           Subsequently, you know, we expect to breach  
23 that threshold, you know, in the not-too-distant  
24 future, and we'll -- we'll -- you know, we'll establish  
25 a direct connection at that time.

1                   But both parties can become operational, you  
2 know, very quickly, and efficiently.

3                   Q.    So with respect to an indirect  
4 interconnection, are there greater cost burdens on one  
5 party over another?

6                   A.    To the extent that both parties have to --  
7 you know, have independent requirements to be connected  
8 to that tandem, and already have the trunk groups in  
9 place, no.  It's really -- it's -- you know, you can  
10 allocate their backbone in various ways, but the cash  
11 out-of-pocket is not really a difference, and the --  
12 and the activities, both sides are going to have to  
13 undertake the same translations work.

14                   And when I say translations, in the telecom  
15 industry, that means just telling your switch to point  
16 traffic bearing certain NPA and XX, or a certain local  
17 routing number, at a certain destination.

18                   You have to do that for all traffic, so it  
19 doesn't matter whether you're going direct or indirect.

20                   There's one other advantage of indirect  
21 interconnection.  Is that when you go to direct,  
22 remember, you haven't set up anything special for  
23 indirect.  You're just using what's already there.  But  
24 that indirect route can be -- can still -- will still  
25 be maintained in the translations as the secondary

1 route. For example, if you have, you know -- you know,  
2 if one party or another has an extreme -- you know, if  
3 there's an extreme calling pattern that happens on a  
4 day, rather than get blocking, because you size direct  
5 trunk groups based on, you know, what you're  
6 anticipated capacity is, you know, if you have to put  
7 in a capacity addition, there -- for any reason there  
8 may be a delay, you've got that secondary route always  
9 available for overflow.

10 Now, you don't want to -- you don't  
11 typically use it that often, but it's a very efficient  
12 way of adding -- not having to put in additional direct  
13 facilities if you have just, you know, a one-time blip.

14 Q. There aren't additional costs for taking  
15 traffic, say, to Provo, when you're dealing with the  
16 Vernal exchange, that would fall upon UBTA UBET, that  
17 they wouldn't suffer if they didn't have to take it  
18 outside their territory?

19 A. They will have to pay the transiting fee.  
20 But to the extent that the traffic that would -- that  
21 would be transiting for purposes of this  
22 interconnection group --

23 The interconnection arrangement is not  
24 requiring a capacity addition. The other costs are  
25 costs that they're already bearing. So the cash

1 out-of-pocket is really just the transiting fee.

2 And on top of -- you know, it's typically,  
3 in rural networks, what you see is, with those trunk  
4 groups to tandems, tend to be, you know, substantially,  
5 or at least, you know, have -- have plenty of extra  
6 capacity. And, you know, we've asked UBTA and UBET to  
7 provide us with some capacity numbers, you know, so  
8 that we could clarify -- confirm that, and they chose  
9 not to, so.

10 Q. You know the interconnection statute talks  
11 about one telecommunications corporation  
12 interconnecting with another, who's going to provide  
13 public telecommunications services in the same adjacent  
14 or overlapping service territory.

15 A. Yes.

16 Q. Doesn't that imply that the interconnection  
17 would be done within the same area where each is  
18 providing service?

19 A. No. Not necessarily.

20 In fact -- but just to be clear, we're not  
21 asking UBTA UBET, in doing indirect interconnection,  
22 we're not asking or requiring that they extend the  
23 facility beyond their existing meet point with the  
24 tandem.

25 So the -- it would be using all of the

1 existing facilities that they already have in place.  
2 So they're not actually extending anything beyond their  
3 area.

4 But the -- you know, the indirect  
5 interconnection is -- well, for that -- you know, the  
6 example I gave in Century. In Colorado. Where we are  
7 exchanging traffic indirectly, even though we're  
8 exchanging local traffic within the Century exchange,  
9 but we're both exchanging it via our trunk groups to a  
10 Qwest tandem that's far distant.

11 Q. Was that Century Tel agreement one that you  
12 negotiated, or was it arbitrated and required?

13 A. We opted into it.

14 Q. So it was already available?

15 A. It was available. I don't know if it was  
16 litigated or not.

17 Q. Okay.

18 A. It wasn't litigated in our case.

19 Q. And at that 512 CCS level, does that become  
20 economically feasible? Is that where -- that the  
21 cut-off point where it becomes economically feasible  
22 for Bresnan to incur whatever costs it has to do to  
23 move forward with the direct interconnection?

24 A. The 512 CCS is -- is industry-recognized as  
25 the threshold for installing a direct trunk group

1 between any two switches. It's widely acknowledged as  
2 being an efficient point for all parties.

3 It's not necessarily tied to our economics,  
4 or UBTA's economics, it's a generic -- you know, it's a  
5 generic threshold that -- you know, that that's where  
6 you're justifying a new trunk group.

7 Q. How many minutes is 512 CCS?

8 A. It varies. It's not necessary -- it's a --

9 Q. What's the range?

10 A. It's a busy hour. It can -- you know,  
11 the -- you know, it's a -- it's more of a busy hour  
12 measure. It's not a -- necessarily a fixed measure.

13 But typically, when you see calculations for  
14 trying to derive price, or cost, or what have you, what  
15 you typically see is, you know, you'll see people as  
16 proxy, using anywhere from, you know, maybe 225 to 275.  
17 That's -- that's what I've seen in -- in various  
18 analyses. But we picked them.

19 Q. Okay. Thank you.

20 Now, I'm the first to say that we're  
21 applying State law here and not Federal, but there's  
22 been a lot of discussion about the Federal law.

23 A. I wasn't aware of much discussion of Federal  
24 law. To say it doesn't -- this is state traffic.

25 Q. No, no. I'm kind of moving into a whole

1 different --

2 A. Oh.

3 Q. I'm not talking with respect to what you  
4 just said.

5 A. Okay.

6 Q. But insofar as the testimony that's before  
7 us, Mr. Coleman's testimony and so on, and then there's  
8 the issue of whether or not an Interconnection  
9 Agreement under the Federal law is similar, and you  
10 said that indeed it is similar to this Essential  
11 Facilities Agreement, and we're -- and I don't mean to  
12 be making a speech, but where there are principals and  
13 provisions of the law that are similar we ought to  
14 apply them.

15 So with all of that said, Section 251(C)(2)  
16 on Interconnection?

17 A. Mm-hmm.

18 Q. Doesn't -- doesn't that provision of the  
19 Federal law essentially say that -- that duty of a  
20 telecommunications service provider, who's  
21 interconnecting, is to provide interconnection at any  
22 technically feasible point within the carrier's  
23 network?

24 MR. NELSON: I'm sorry, I'm going to object.  
25 I'm not quite sure what Mr. Harris's memory is, but is

1 it possible that if counsel has a copy of the law to  
2 which he's referring and asking the witness to quote,  
3 that might be helpful.

4 MR. MECHAM: My copy is on my laptop.

5 THE WITNESS: Well, more specifically, I  
6 don't have a reference to that in my testimony, or of  
7 anything I've said today, I don't believe.

8 Q. (BY MR. MECHAM) Well, the point of  
9 interconnection is at issue here. So it doesn't matter  
10 whether or not this is precisely in your testimony, the  
11 subject matter is in everyone's testimony.

12 And I'm only asking, with respect to  
13 251(C)(2) -- and if you need -- I guess I can unplug  
14 and show you my laptop.

15 A. No. If you could just repeat it to me.

16 Q. Well, I'll read it to you. It says, "The  
17 duty to provide" -- this is under the interconnection  
18 section.

19 It says, "The duty to provide for the  
20 facilities and equipment of any requesting  
21 telecommunications carrier interconnection with a local  
22 exchange carrier's network; A for the transmission and  
23 routing of telephone exchange service and exchange  
24 access; B, at any technically feasible point within the  
25 carrier's network."



1 A. Okay.

2 Q. So while providers may voluntarily enter  
3 into agreements that provide for indirect  
4 interconnection, if -- if it were arbitrated under  
5 this, isn't there duty to only provide interconnection  
6 within their service territory?

7 MR. NELSON: I'm going to object.

8 THE WITNESS: Every arbitration I've ever  
9 seen includes interconnection.

10 Q. (BY MR. MECHAM) But they agreed to it.

11 MR. NELSON: I'm going to object to the  
12 question because the words "service territory" I  
13 believe is not existent in the language that Mr. Mecham  
14 read.

15 The word in the language he read was the  
16 word "network." And I think that the question, as a  
17 result, is confusing, and ought to be restated.

18 MR. MECHAM: It does say carrier's network.  
19 I concur with that.

20 ADMINISTRATIVE LAW JUDGE: Do you want to  
21 restate your question, Mr. Mecham?

22 Q. (BY MR. MECHAM) Well, all I was asking was  
23 doesn't the Federal law provide for interconnection at  
24 any feasible point within the carriers' network?

25 A. Well, that's what that -- I guess that's

1 what is -- verbatim what that section says. I'll take  
2 it on, you know, your honor, that that's not -- not  
3 looking at the words, that that's what it says.

4 Q. That is what it says.

5 A. Okay.

6 Indirect interconnection isn't necessarily  
7 inconsistent with that, because, as in Exhibit B2, the  
8 interconnection -- the interface for UBTA would be  
9 their existing meet point with Qwest, and their  
10 existing meet point with Qwest is clearly on their  
11 network.

12 Q. Do you know where the meet point is between  
13 UBTA UBET and Qwest?

14 A. I don't know the geographic location of it.  
15 I know from the -- from the NECA 4 tariff that there is  
16 a -- that the distance between Vernal and Provo is  
17 113 miles, and the billable percentage that's  
18 attributable to UBTA comes out to -- sorry, I'm going  
19 to rustle some paper to try to find it. -- comes out  
20 to about 85 miles.

21 Q. So is the meet point different than the  
22 tandem?

23 A. Yes.

24 Q. Is it technically feasible to interconnect  
25 there?

1 A. Via the tandem, yes.

2 Q. But not at the meet point?

3 A. Well, but their point of interface is their  
4 meet point with the tandem, and our point of interface  
5 will be our physical facility to the tandem. Or our  
6 lease facility at the tandem.

7 MR. MECHAM: Thank you.

8 That's it for me now, Your Honor.

9 ADMINISTRATIVE LAW JUDGE: Thank you.

10 Mr. Ginsberg?

11 CROSS EXAMINATION

12 BY MR. GINSBERG:

13 Q. Mr. Harris?

14 A. Yes.

15 Q. You indicated that you have Interconnection  
16 Agreements with other rural ILECs. Is that correct?

17 A. Yes.

18 Q. Is Century the only one?

19 A. No. We've recently executed agreement with  
20 a small independent -- their name is TCT West, and I'm  
21 going to look at -- they're in Wyoming?

22 MR. LAMBERT: Yes.

23 THE WITNESS: Okay. I'm sorry. In Wyoming.

24 Q. (BY MR. GINSBERG) Was that a voluntary  
25 agreement?

1 A. Yes.

2 Q. And does that agreement call for indirect or  
3 direct connection?

4 A. That calls for indirect interconnection.

5 Well, it calls for both, but indirect  
6 interconnection initially up to the threshold, and then  
7 the establishment of direct.

8 Q. Now, does all of your traffic from your  
9 Interconnection Agreements all go through the  
10 Grand Junction switch?

11 A. No. We have eight regional switches. And  
12 those regional switches serve various markets.

13 Q. Now, what is -- does indirect  
14 interconnection, by definition, mean that it's through  
15 a third-party?

16 A. Yes. It means -- it's -- yes, it's between  
17 a third-party tandem.

18 Q. When you say typically, what could an  
19 indirect interconnection be if it wasn't through a  
20 third-party?

21 A. Actually, the word typically was a nervous  
22 tick. As far as I know -- thank you for that  
23 follow-up. -- the only indirect interconnection I'm  
24 familiar with, that I've ever seen, has been through a  
25 third-party tandem.

1 Q. The interconnection that you have in Cedar  
2 City, is that direct or indirect?

3 A. That interconnection actually is not --  
4 that's not one that we operate. That's operated by our  
5 subcontractor under their CPCN and internet connection  
6 agreement. But that's -- my understanding is it's a  
7 direct interconnection, because they are directly  
8 connecting with Qwest in that market.

9 Q. So indirect only means that -- would only  
10 really apply to a small telephone company, where you  
11 don't have a switch located in the area and you're --  
12 need to interconnect at some third point.

13 A. Well, no. It has nothing to do with -- with  
14 either party's -- the location of either party's  
15 switch. What it has to do with is where neither party  
16 has a tandem, you interconnect between a third -- the  
17 initial interconnection is established through a  
18 third-party tandem.

19 When we interconnect with Qwest, we  
20 initially interconnect our switch to their tandem. And  
21 then we move to direct trunk groups between our switch  
22 and their various end offices as we hit that 512 CCS  
23 threshold.

24 Q. So is the key to indirect interconnection,  
25 is it through a tandem?

1 A. Yes.

2 Q. And what is a tandem?

3 A. Okay.

4 Q. You know, maybe put it in words --

5 A. Sure. Sure.

6 You know, in the -- and I'm speaking  
7 generally. There are always variations and exceptions,  
8 because this is the telecommunications industry, and we  
9 can't really make anything simple.

10 But end offices are offices that directly  
11 terminate to customers. Tandem switches are switches  
12 that connect various end offices together.

13 And the reason you have tandems is because  
14 they're aggregation points.

15 Because you may -- you have, you know, tens  
16 or hundreds of end offices potentially servicing a  
17 single LATA, for instance. And it would be inefficient  
18 to have direct conductivity between each and every end  
19 office and each and every other end office.

20 So you connect to these tandem switches,  
21 which are aggregation -- you know, big aggregation  
22 device -- platforms, and it's much more efficient,  
23 because then you can ensure that you have -- you know,  
24 each trunk group is going to be, you know, operating in  
25 an optimal level of traffic utilization.

1                   When you connect with a party that has  
2 tandems, you typically -- you know, the CLEC typically  
3 directly connects to that party's tandems. And this is  
4 no different than the way independent TelCos subtend,  
5 you know, Qwest -- RBOC tandems, usually for toll  
6 traffic and for switched access traffic, toll traffic  
7 from other local providers and switched access traffic  
8 from long distance carriers, so that you don't have to  
9 have separate facilities connecting to every other  
10 facility out there, but also occasionally for EAS  
11 traffic that may pass between adjacent LECs.

12               Q.    Now, does Uinta Basin have a tandem?

13               A.    My understanding is that they do not have a  
14 tandem that's -- that connects to their Vernal host  
15 office for traffic to other carriers. I -- I could  
16 find no -- when I looked up in the Local Exchange  
17 Routing Guide, the LERG, which is the -- the industry  
18 publication that lists all of the routing and homing  
19 arrangements in the industry, I found no -- no tandem  
20 subtending arrangement for Vernal other than Provo and  
21 UFN tandem in Salt Lake City.

22               Q.    So they have -- they have these two tandems  
23 that they use for what purpose?

24               A.    My understanding is that the Provo tandem  
25 is -- is designated -- it's designated in the LERG for

1 local toll -- or IntraLATA toll and for feature group  
2 B. That's a form of switched access.

3 And the UFN tandem is indicated for feature  
4 group D, which is --

5 Q. Feature group D?

6 A. The UFN is feature group D, as in dog, which  
7 is a form of switched access, and the Provo is for  
8 feature group B, as in boy, which is another form of  
9 switched access.

10 Q. In their answers to data request, they  
11 indicated that -- if I recall right, that the Provo  
12 tandem, that they have no Provo -- no tandem for  
13 feature group D or local traffic, and would have to add  
14 and construct facilities or buy facilities in order to  
15 get their traffic to the tandem. Do you recall that?

16 A. I don't recall -- I don't recall that exact  
17 answer. I recall them stating that they -- that they  
18 don't have a local tandem.

19 In the LERG, there are various types of  
20 tandems that can be designated for a single end office  
21 switch. There are local -- there's a designation for  
22 local tandem, a designation for IntraLATA toll tandem,  
23 a designation for feature group B tandem, for feature  
24 group D tandem. There may be a designation for 800 and  
25 operator services. And, in fact, you have separate



1 designations for originating and terminating traffic of  
2 all of those types.

3           They, as far as I know -- if recollection  
4 service, in the LERG they have designated Provo for  
5 local -- for IntraLATA toll, and feature group B, as in  
6 boy, and Salt Lake for feature group D, and I believe  
7 perhaps for 800, but I can't -- I'm not sure.

8           But having said that, so it's true, they  
9 have no local tandem designated, but in the absence of  
10 a local tandem being designated, either of the tandems  
11 is capable of being used for indirect interconnection.

12           Q. Did you review other Interconnection  
13 Agreements that Uinta Basin has entered into with  
14 Western Wireless and Union Telephone?

15           A. I -- I specifically recall seeing Union and  
16 some others. I'm not -- I don't remember if Western  
17 Wireless was included in the group I reviewed. It may  
18 have been.

19           Q. Do you happen to know whether those  
20 agreements permitted indirect interconnection?

21           A. I know that the Union agreement specifically  
22 permitted indirect interconnection. I -- I don't have  
23 a recollection as to the other one.

24           Q. So where would that interconnection point be  
25 for Union if, in other words, they just didn't create a

1 direct interconnection?

2 A. I don't know if they -- all I know is that  
3 the agreement permitted it. It did not specify a  
4 tandem, nor did it, you know, indicate whether such an  
5 arrangement had, in fact, been implemented.

6 And our agreement, I might add, doesn't  
7 specify. It says a third-party tandem to which both  
8 parties are connected.

9 Q. How would you like the Commission to  
10 resolve, when you weren't able to agree on a tandem, do  
11 you want to the Commission to decide which tandem?

12 A. No. Our -- the agreement we've proposed to,  
13 you know, say any -- you know, the language we've  
14 proposed leaves it agnostic, any tandem to which both  
15 of the parties are connected.

16 To the extent we were connected to both of  
17 them we would mutually agree with UBTA. To the extent  
18 that it was only necessary for us to interconnect to  
19 one of them, then it would be to that one which we  
20 interconnected.

21 Q. What was LRG again? What does that stand  
22 for?

23 A. L-E-R-G.

24 Q. L-E-R-G?

25 A. Local Exchange Routing Guide.

1                   Okay. It's a publication by Telcordia,  
2                   which is the former Bell Corp, that basically records  
3                   all of the routing for traffic in the public switch  
4                   telecommunications network. It basically says every  
5                   telephone number, NXX, homes to a specific switch, and  
6                   that specific switch in turn subtends various tandem  
7                   switches. And basically allows everybody in the  
8                   industry to program their switches to route traffic  
9                   to -- so that it gets to where it needs to go.

10                  Q. So in order for Uinta Basin to route local  
11                  traffic to that tandem, which isn't designated now for  
12                  local traffic, what would they have to do?

13                  A. They wouldn't actually have to do anything.  
14                  You know, they could, if they wanted, designate that  
15                  traffic, in the LERG, as a local tandem. But they  
16                  don't actually have to. All they need to do is just go  
17                  into their switch and make a trans -- and designate,  
18                  you know -- and when they stop the translations -- when  
19                  we go live, when we initiate operations in that market,  
20                  we will first of all go to the North American Numbering  
21                  Committee and receive an assignment for what's called a  
22                  thousands block. It's basically, you know, the -- the  
23                  NPA-NXX plus the next number. It's a block of 1,000  
24                  consecutive telephone numbers that would be assigned --  
25                  that would be associated with the Vernal rate center

1 and assigned to our switch.

2 And at that point -- and we also have what's  
3 called a local routing number for that same rate center  
4 that says, Okay, that thousands block is assigned to  
5 our switch, and any telephone numbers that are ported  
6 to that switch should be routed on this local routing  
7 number. This LRN. Two pieces of information.

8 At that point, the ILEC would go into their  
9 switch and tell their switch, Route traffic that's  
10 terminating to either that thousands block or that LRN  
11 to this company.

12 And at that point, if we're an indirect  
13 interconnection, they'd say point it to the tandem.  
14 And if we're in direct interconnection, they'll say  
15 point it to the -- to the direct interconnection trunk  
16 group.

17 But it's a simple programming matter.

18 Q. I guess my question really is, since you're  
19 located in Vernal.

20 A. Mm-hmm.

21 Q. And if you look at the exhibit that's --  
22 that you put together, which is part of your Exhibit 2,  
23 which shows the costs that you made up for -- between  
24 indirect and direct connection. Since you're located  
25 right in Vernal, and, you know, right down the street

1 from their central office, what's the reason that  
2 drives you to have to use a tandem in Provo in order to  
3 interconnect?

4 A. Well, the basic issue is just efficient use  
5 of -- of capital. I mean, it's the efficient use of  
6 your network facilities and your switches.

7 A trunk group is a unique hardware interface  
8 on a switch. And so we don't like to use those  
9 inefficiently. We want to add trunk groups.

10 And this is true of all carriers, not of --  
11 not of Bresnan in particular. But in the industry, you  
12 want to use your platforms efficiently, and you don't  
13 want to put in a new interface that's going to be  
14 under-utilized for some extended period of time. You  
15 want to add it as needed.

16 So if we -- if both carriers already have  
17 existing interfaces to a third-party tandem, and those  
18 interfaces are not at or near exhaust, but have  
19 available capacity, there's no incremental cost to  
20 utilize that route other than the transiting.

21 Which is extremely nominal.

22 Then, as traffic grows and you begin to  
23 approach the threshold for establishing a direct trunk  
24 group, then you can efficiently deploy that capital,  
25 create that interface, and establish that trunk group.

1 Q. Would it make any difference if you had your  
2 switching capability located in Vernal as opposed to  
3 Grand Junction? And isn't it that you have to take  
4 all of your traffic to Grand Junction that drives the  
5 need for the Provo --

6 A. Not at all. Not at all.

7 We -- for instance, we have operations in  
8 other LATAs, with other carriers, where the end office  
9 and the tandem may be, you know, in the same city as  
10 our switch, or -- and -- or that the tandem may  
11 actually be distant, but the end office of the -- of  
12 the ILEC is in the same city as our switch. We still  
13 connect initially to the tandem, because we have to  
14 connect to that tandem for lots of other forms of  
15 traffic as well. And it's always more efficient to  
16 deliver traffic in as -- you know, with as high a  
17 volume as possible until you reach a threshold where  
18 it's efficient to then create a dedicated direct route.

19 Q. What's the standard the Commission should  
20 use to make this decision whether, initially, a direct  
21 interconnection should be required versus an indirect?  
22 Should it be economics?

23 In other words, if you look at the exhibit  
24 here, the cost for a direct connection for Uinta Basin  
25 is relatively low. And if your requirement that would

1 require them to have a indirect connection causes them  
2 higher costs than a direct connection, should the  
3 Commission require the direct connection?

4 A. Well, the -- let's -- let's start back.

5 The standard should be what's -- what's, you  
6 know, industry standard operating procedure. You know,  
7 what's -- what's typical mainstream and standard  
8 procedure in the industry? And what's standard  
9 procedure in the industry is indirect followed by  
10 direct.

11 And that's -- an indirect meaning going  
12 through a third-party tandem.

13 But even in -- in situations where you have  
14 a -- where you're interconnecting with say an RBOC, who  
15 has its own tandems there, the beginning point is  
16 always go to the tandem. And only go to the --  
17 directly the end office when you reach that threshold.

18 And there again, it really doesn't matter  
19 where the -- what the distances are, but furthermore,  
20 as a standard -- you know, as a basic presumption, the  
21 reason you go that way is because it is more efficient.  
22 Maintaining a separate trunk group that's going to be  
23 under-utilized is not efficient. It's not efficient  
24 use of -- of capital. It's not efficient use of the  
25 maintenance that you may have on that.

1                   You know, there are a variety of reasons why  
2                   this is standard practice, but I would argue that  
3                   because we would be employing trunk groups that are  
4                   already in place, and for which their costs are going  
5                   to exist regardless, they're going to have those costs  
6                   regardless, the only real cost number to look at and  
7                   compare is the -- is the transiting rate. Is the  
8                   transiting expense. Which would be, you know,  
9                   something like 1,100ths of a cent. And that would be  
10                  incurred on a per-minute basis.

11                  Whereas, on a direct trunk group, whatever  
12                  they put in, it's going to be the -- from day one,  
13                  whether there's one minute, whether there's  
14                  zero minutes, or full capacity, that trunk group is  
15                  going to, you know, represent a cost of the interface  
16                  and establishment on day one.

17                  And so, you know, that first minute is going  
18                  to be -- you know, I don't know how much it's going to  
19                  cost, but it's going to cost, you know, lots of  
20                  dollars. Whereas -- you know, and that's why you have  
21                  the threshold. Because you say, you know, the -- their  
22                  cash out-of-pocket for indirect interconnection will be  
23                  that 1,100ths of a cent.

24                  And that will be for every minute that they  
25                  terminate.



1                   And for minutes that we terminate to them,  
2                   their cash out-of-pocket will be zero.

3                   Q.    Suppose they do have to add capacity, or  
4                   incur, as they've claimed, additional costs because of  
5                   this indirect interconnection.

6                   A.    I -- I don't recall.  If you could -- if you  
7                   could point me to that data request.  I don't recall  
8                   them saying that they would actually have to add  
9                   capacity there.

10                   I heard them say that they would have to  
11                   haul it a long way, and that they would -- and that --  
12                   that they would have to haul it a long way, and that  
13                   it's not currently a local tandem, but I didn't hear  
14                   that they'd actually have to expand capacity.

15                   And we asked them questions to -- designed  
16                   to elicit whether or not they would need to expand  
17                   capacity, and they refused to answer.

18                   Q.    So should the standard be, then, that if  
19                   there's essentially no additional cost or minimal  
20                   additional cost to each party to acquire an indirect  
21                   interconnection, then the Commission should basically  
22                   permit that indirect interconnection as -- be the way  
23                   to initially interconnect these two systems?

24                   A.    That -- that's certainly a reasonable  
25                   criteria.  I don't know if that would be the only

1 criteria. But that's certainly a reasonable, you know,  
2 criteria.

3 Q. What evidence would you --

4 A. Could you restate the original assumption,  
5 just so I'm clear on this?

6 Q. Essentially that there would be minimal cost  
7 to either party to interconnect at an indirect point,  
8 then the Commission should permit an indirect  
9 interconnection if that's what is a technically  
10 feasible point.

11 A. Yes.

12 Q. And you're requesting it.

13 A. Yes. That -- yes. That would be an  
14 appropriate criteria.

15 Q. Are there any others that you can think of?

16 A. You know, provided that it's -- you know,  
17 that it's following industry standard procedures, you  
18 know, I -- I think that, you know, there's a danger  
19 of -- you know, one of the -- I had hesitancy in saying  
20 that's the only criteria is that you then may invite  
21 the kind of -- you know, I -- I don't want to invite a  
22 situation where we then spend the next six months with  
23 UBTA UBET coming before the Commission trying to prove  
24 that they have excessive costs, when the industry  
25 standard and presumption is that existing capacity on

1 existing trunk groups is an efficient use -- it's  
2 efficient to use existing capacity on existing trunk  
3 groups.

4 And we've been delayed an entire year. Our  
5 CPCN was granted a year ago. We asked for  
6 interconnection.

7 You know, in the original CPCN proceeding,  
8 the Commission, you know, certainly contemplated that  
9 we were going to interconnect. And we are here, a year  
10 later, and we are still not in business, and the people  
11 and businesses -- the consumers and businesses in  
12 Vernal still haven't had a choice for local telephone  
13 service.

14 So, I think that it's very safe to say that,  
15 yes, that's a -- the right criteria to use, but that we  
16 can make a general presumption that, in fact, that  
17 criteria is met in this case.

18 Because that's been the general presumption  
19 and practice throughout the industry.

20 Q. Can you explain to me what the -- and maybe  
21 you sort of answered, I think, to Mr. Mecham, but  
22 these -- you'll be interconnecting at the Provo tandem,  
23 or this other tandem. But is that different than the  
24 point of interconnection that -- where the meet points  
25 are?

1           A.    We are interconnecting through a tandem.  
2           We're not physically meeting in that situation.  We're  
3           not physically meeting our own networks.  We're each  
4           physically meeting a -- we're each using the physical  
5           meetings that we already have.

6                        So in an indirect interconnection, there  
7           isn't actually a POI.

8           Q.    Would you call it virtual interconnection?

9           A.    Well, I -- the industry term-of-art is  
10          indirect interconnection.  So there's not a new POI  
11          being established.  No one's extending new facilities,  
12          or extending or establishing a POI.

13                       In, you know, the -- in the direct testimony  
14          that UBTA UBET put in, they made a lot of assertions  
15          that we were proposing a POI at the Provo tandem.  That  
16          was clearly not what was in our testimony or our  
17          original draft agreement.  What we said in the original  
18          draft agreement is that reciprocal compensation would  
19          apply as if it was at the POI.  But the fact of the  
20          matter is, there was no requirement to extend  
21          facilities, by either party, to this third-party  
22          location, but it was to use the pre-existing facilities  
23          that were already in place.

24          Q.    Now, as opposed to a direct interconnection,  
25          that Uinta Basin is proposing, there would be a new

1 point of interconnection created.

2 A. Yes.

3 MR. GINSBERG: Off the record.

4 (Whereupon, a discussion was  
5 held off the record.)

6 THE WITNESS: I'm sorry, I've lost. Was  
7 there a question that you -- that I --

8 ADMINISTRATIVE LAW JUDGE: Actually, let's  
9 go off the record.

10 (Whereupon, a discussion was  
11 held off the record.)

12 (Whereupon, a break was taken.)

13 ADMINISTRATIVE LAW JUDGE: We're back on the  
14 record.

15 Mr. Ginsberg, do you want to proceed?

16 Q. (BY MR. GINSBERG) Yeah.

17 Mr. Harris, I did find that data request.

18 Do you have that up there?

19 A. Can you tell me --

20 Q. It's the Division's second set to Uinta  
21 Basin.

22 A. Let me see if I have it here.

23 I don't believe I have it.

24 MR. NELSON: I have it.

25 MS. SLAWSON: I have several copies.

1 THE WITNESS: Okay. And which item was it?

2 Q. (BY MR. GINSBERG) The 1.1. Sort of -- they  
3 didn't actually produce a cost study like -- like you  
4 did, but gave some comments on -- and essentially said  
5 that they'd have to establish a T1 trunk running from  
6 Vernal to the tandem.

7 A. Yeah. I don't know why they claim they  
8 would need to establish a separate trunk group.  
9 There -- according to the LERG, there's already a trunk  
10 group in place for intraLATA toll and feature group B,  
11 as in boy, traffic.

12 And so far as I know, there's no  
13 technically -- technical reason why it wouldn't be  
14 possible for us to exchange local traffic via that same  
15 trunk group.

16 Q. And one of their issues appeared to be  
17 surrounding the measurement of traffic. Do you recall  
18 that?

19 A. Mm-hmm. (Witness nods.)

20 Q. That -- I think your Interconnection  
21 Agreement sort of proposed or gave as an option using  
22 factors for measurement of traffic. Is that right?

23 A. The agreement had two provisions, one of  
24 which said factors could be used; however, it was the  
25 option of the terminating party.

1           So if we were sending traffic to UBTA UBET,  
2           it would be at their option whether they wanted to take  
3           a factor from us or to measure directly. And when they  
4           sent traffic to us, it would be our option to accept a  
5           factor from them or to measure directly.

6           That wasn't -- we weren't proposing factors  
7           as a default, we were -- at the time, we had not had  
8           any conversations with UBTA UBET, and they had not  
9           given us -- expressed any preference that we were aware  
10          of as to how they would prefer to operate.

11          We, ourselves, prefer direct measurement,  
12          and so, in the red-line, we just said it's direct  
13          measurement.

14          Q. So do you view that issue still in dispute?

15          A. No. I -- I never thought it was in dispute.

16          I was -- I found their testimony on the  
17          point of -- quite a bit -- very curious, because our  
18          agreement clearly stated that it was the terminating  
19          party's choice whether or not to accept a factor from  
20          the other party.

21          Q. Now, when you actually measure the traffic  
22          on this trunk group that we've been referring to, is it  
23          able to distinguish, then, between a local call,  
24          intrastate call, or whatever else is going down that  
25          trunk group?

1           A. Well, the -- in the SS7 stream, which is the  
2 signaling for the trunk, it's going to send the  
3 information about the call -- the originating number,  
4 the terminating number, various other indicators --  
5 from which each party should be able to determine the  
6 jurisdiction of the call.

7           Q. Now, you say this indirect interconnection,  
8 you said you use it until you have a DS1 amount of  
9 traffic.

10          A. Yes.

11          Q. What does that mean?

12          A. Well, it's -- the -- the accepted industry  
13 proxy for that is when you have traffic volumes of  
14 what's called 512 CCs, or centum call seconds, it's a  
15 measure of traffic. It has to do with busy hour. It  
16 can vary by traffic pattern.

17                    But for modeling purposes, people typically,  
18 you know, throw around any -- a range of minutes that  
19 it may actually entail, two-way minutes, anywhere from  
20 225,000 to maybe 275,000. It depends on the modeling  
21 that's being done.

22          Q. Is that different than the amount of traffic  
23 that -- as would be on this existing trunk group that  
24 we've been talking about that would go from Vernal to  
25 the tandem?



1           A.    It would be -- that would be, yes,  
2           incremental traffic.  So that when the incremental  
3           traffic between our network and their network, going to  
4           the Vernal tandem, hit the threshold, then we would  
5           establish a direct DS1 trunk group.

6           Q.    So if their trunk group is already being  
7           used, 90 percent full, and once it gets to the -- a  
8           higher -- the percentage -- higher percentage, that's  
9           when you would then go to a direct connection?

10          A.    No.  The way the agreements -- the way the  
11          agreements are typically written is is that when the  
12          traffic between the two networks hits that threshold,  
13          the assumption is is that that threshold would not  
14          breach the phys -- the existing capacities of the -- of  
15          the existing trunk group.

16                And there's a -- there's a good reason not  
17          to think that that is the case.  Typically trunk groups  
18          between rural TelCos and tandem switches tend to be  
19          under-utilized.  There are a variety of reasons why  
20          they're under-utilized and have extra capacity.  One --  
21          one reason, and I don't know if it's present here,  
22          because they refused to provide us information on what  
23          the capacity of that trunk group is, but one of the  
24          reasons is because, at the Federal level, rural TelCos  
25          tend to be regulated in a way that gives them --

1 they're rewarded for having more trunk capacity as  
2 opposed to less.

3 Q. In a sense are you then asking them to give  
4 up their excess capacity on this trunk group, which  
5 they might be using for their future growth, to allow  
6 you to use that as opposed to a direct connection?

7 A. What I'm saying is, once we connect to that  
8 tandem, both parties are going to have extra capacity  
9 on the trunk groups. Because when -- I'm -- we're  
10 probably not going to be filling our trunk group with  
11 a -- with the traffic. We're going to initially for  
12 other purposes that we have to have to that tandem.  
13 The other traffic we have for other purposes isn't  
14 going to fill that trunk group, and it's unlikely that  
15 their current trunk groups are at capacity.

16 And so what I'm saying is, it makes sense  
17 that for both parties to use that existing capacity  
18 that's already in place, that the costs of which  
19 they're going to have in any case, to use that in lieu  
20 of establishing a new trunk group between their  
21 networks, until such time as -- as we reach the -- the  
22 generally recognized threshold.

23 Q. Have you ever, with your other  
24 interconnection agreements, reached the point that you  
25 went from indirect to direct?

1 A. Oh yes. Yes. We have.

2 Q. And how long would it be here? Assuming a  
3 normal penetration into that market?

4 I mean, how many --

5 A. You know, I -- I really don't know. We --  
6 I -- I don't have -- I don't have marketing projections  
7 for the market. We haven't -- you know, we don't know  
8 when we're going to start operations, so I haven't  
9 done, you know, extensive marketing.

10 You know, there are rules of thumb you could  
11 use, but -- I -- I really don't know. I mean,  
12 basically as you start approaching it, you can start --  
13 you know, once you get into a market you start seeing  
14 what your take rate is, and, you know, you can pretty  
15 much see an average per customer.

16 But I don't know what it is in this case.

17 Q. Does it make any difference to you which  
18 tandem is used? Whether the Provo tandem or the --  
19 what was the name?

20 A. The Salt Lake City tandem?

21 Q. Are the costs any different than you've  
22 shown on this exhibit?

23 A. I don't know if my costs would be different.  
24 The key there is -- the key to which tandem is that  
25 indirect interconnection, where you're using a

1 third-party tandem, is done where both parties have  
2 other requirements -- other reasons to be connected to  
3 the same tandem.

4 We know, for other reasons, that we're going  
5 to need to connect to the Provo tandem. I don't know  
6 operationally if we're going to have a need to connect  
7 to the Salt Lake City UFN tandem.

8 If, in fact, however, we determine that we  
9 will have a need to interconnect to that tandem, and  
10 we're able to, then, no, I would have no preference.

11 Q. What are the other reasons you need to be at  
12 the Provo tandem?

13 A. We will -- we expect to designate the Provo  
14 tandem as our feature group D meet point tandem. We  
15 also -- but more directly, we need to connect to that  
16 tandem probably to the extent that we're going to  
17 exchange -- receive IntraLATA toll service -- toll  
18 traffic from Qwest customers. Qwest would presumably  
19 terminate that route to us.

20 Q. Can you -- can we look at this -- this --  
21 these exhibits that you attached to B, if we could for  
22 a few minutes?

23 A. Sure.

24 Q. And if we could, let's start with the direct  
25 connection, which is --

1 A. I'm sorry, Exhibit B2 was that?

2 Q. Yes. Yes.

3 Scenario three.

4 A. Okay.

5 Q. In your agreement, you -- and I think Uinta  
6 Basin sort of wanted a direct connection defined as  
7 opposed to leaving it open. Is that right?

8 A. Yes.

9 Q. Now -- and is there any reason you can't do  
10 that now?

11 A. We actually did. In the -- when we -- when  
12 we submitted our original agreement, as, again, we had  
13 not had a conversation with UBTA UBET, they had not --  
14 you know, at that point had not -- would not discuss  
15 interconnection with us.

16 And in our experience, it's better that the  
17 parties have some mutual agreement on where the  
18 interconnection point -- point of interconnection  
19 should be, so in that agreement, we just said the POI  
20 will be a mutually designated location, meaning that  
21 we'll sign the agreement, come to -- and then meet and  
22 discuss what's the best place to do it.

23 Subsequently, they filed their testimony and  
24 proposed agreement that said it would be at our  
25 head-end in Vernal. And we were -- for -- this was for

1 direct interconnection. And we were perfectly happy  
2 with that. So in our red-line of their agreement, we  
3 have said, Okay, we're good with that. So that -- the  
4 point of interconnection for direct interconnection is  
5 no longer an issue.

6 Q. Okay.

7 Now, the third scenario is a direct  
8 interconnection, and you show significantly higher  
9 cost. That's at \$1,600. Is that fair?

10 A. Yeah. I mean --

11 Q. And --

12 A. Yes.

13 Q. Let me -- let me follow up with it for a  
14 second.

15 And sort of the way I understood sort of the  
16 way the call routing goes, whether it be direct or  
17 indirect, is that a -- like a call from a resident  
18 customer to a Uinta Basin customer would have to be  
19 routed to Grand Junction, and then for direct it would  
20 be routed back to Vernal, where it would then be  
21 exchanged with Uinta Basin?

22 A. Yes.

23 Q. If it's an indirect connection, it's still  
24 routed to Grand Junction, but then, instead of getting  
25 routed back to Vernal, it gets routed to the tandem.

1 A. Yes.

2 Q. And then goes and gets finished by Uinta  
3 Basin.

4 A. Right.

5 Q. So, I'm trying to figure out what the \$1,600  
6 represents.

7 A. The \$1,600 is --

8 Q. Since, as I understand it, those -- that  
9 connection between Vernal and Grand Junction already  
10 exist.

11 A. Well, at this time it doesn't exist. It  
12 will exist.

13 But you're right. I'm sorry, this  
14 connection between?

15 Q. Vernal and Grand Junction. You already  
16 have --

17 A. Well, no. This connection doesn't exist  
18 today. There are -- there is a transmission facility  
19 in place, but it's dedicated to a different use, and is  
20 not currently capable -- is not capable, in its current  
21 format, to interface with Vernal. It's -- with UBTA  
22 UBET. It's a pure internet protocol facility that --  
23 and there's no gateway in Vernal to hand-off to a -- to  
24 UBTA UBET. So we would need to put in a dedicated  
25 facility to deliver the voice traffic for hand-off.

1 Q. And you don't need to do that, because the  
2 voice traffic, whether it's going to -- back to Vernal  
3 or to Provo, goes on that route to Grand Junction.

4 A. Yes.

5 Q. Why don't you need to do that if it's a --  
6 going to the Provo tandem?

7 A. Well, in the Provo tandem case, we show in  
8 the previous example, a cost under the line MOU  
9 allocated internal transport expense in the assumptions  
10 I had, the costs of that fixed facility, but then  
11 created a per-minute allocation of it consistent with  
12 the per-minute allocation that we showed for the  
13 Vernal.

14 Q. So does the \$1,600 charge exist no matter  
15 which way you do it?

16 A. Well, actually it's different. For whatever  
17 reasons, we're buying from -- we're buying these  
18 facilities on the wholesale market, and the cost to go  
19 from Grand Junction to Provo is significantly less  
20 expensive than to -- for a direct dedicated facility  
21 than -- direct to Vernal.

22 But that's -- that's not really at issue for  
23 us, because what we're assuming is, network behind the  
24 POI is each party's responsibility. And so that's  
25 our -- that's our back-haul network, the same way that



1 their network is their backhaul network.

2 But in order to show apples to apples and  
3 oranges to oranges, we had to include -- you know, I  
4 included those costs here, if we're going to allocate  
5 the backbone transport.

6 Q. Well, absent the \$1,600 charge for your  
7 backbone, it appears to me that the least costly form  
8 of interconnection would be the direct interconnection.  
9 For both parties.

10 A. At a certain level, that's correct. But  
11 let's keep in mind that that -- that whatever --  
12 whatever cost that's associated with direct  
13 interconnection is with -- at minute one. Actually, at  
14 minute zero. The time you establish that direct  
15 connection, you've got all of the costs associated with  
16 that connection.

17 You've got the physical interface that each  
18 party is putting on their own switch.

19 Where -- with indirect interconnection --  
20 and I would point you to scenario one, because we're  
21 assuming, you know, if -- if the assumption is correct,  
22 which I have every reason to believe it is, or I have  
23 no reason to believe it's not, that the current trunk  
24 groups that each party will maintain to the tandem are  
25 necessary for other reasons, but are under-utilized,

1 and there's spare capacity on them. Then the only  
2 incremental cost is a per-minute transiting charge of,  
3 you know, 1100ths of a cent.

4           Whereas the -- whatever the capacity  
5 costs -- whatever the costs are to add the capacity on  
6 an individual switch, amortized over whatever period  
7 you want it to be, is a -- is a -- you know, is a  
8 number. I put in \$100 here. That's a -- just a broad  
9 guess, because I don't have that cost data from -- from  
10 the -- from UBTA UBET.

11           But whatever the interface, you know,  
12 expense would be, that's going to be incurred day one,  
13 and then it will be amortized every month, whether  
14 there's zero minutes or 200,000 minutes.

15           Whereas with indirect, if you'll look at  
16 scenario one, the bottom section of scenario one says  
17 that at different traffic levels, the total  
18 out-of-pocket expense is X dollars. And assuming that  
19 full capacity is 25,000 two-way minutes a month, the  
20 out-of-pocket for each party will be about \$140 a  
21 month.

22           And that's assuming that it's full. If  
23 there's zero traffic, it's zero. If there's, you know,  
24 a quarter full of traffic, it's \$35.

25           So we're talking very nominal amounts of

1 money here, for the indirect interconnection. Until  
2 you get to a full tee, you don't really -- I know, in  
3 that scenario, where you're saying that is what's cash  
4 out-of-pocket every month, not allocating either  
5 party's, you know, own internal expense, but just cash  
6 out-of-pocket, it's \$140 a month when it's full, \$0  
7 before it's full. And that compares to whatever the  
8 fixed cost is to go direct.

9 Q. I have trouble understanding how the costs  
10 were the same for each party in scenario one.

11 A. Well, it's the same because each party  
12 already has the transmission facilities in place.

13 Neither one of us is going to be  
14 establishing new facilities.

15 So the only incremental cost, the short-run  
16 incremental cost is going to be the transit charges  
17 that Verizon bills -- or I'm sorry.

18 Q. Qwest.

19 A. Qwest. That Qwest bills to each party for  
20 their -- for their originating traffic.

21 Q. And the difference in scenario two is  
22 that --

23 A. Scenario two said, if I may preface, and  
24 I'm -- I don't mean to give you an extended round-about  
25 answer, but I want to make a distinction here.

1                   In scenario one, we said the situation of  
2                   indirect interconnection will be a short-term  
3                   situation. It is not expected to last to a point that  
4                   it's going to force either party into a capacity  
5                   expansion. So that all of the capacity that would be  
6                   employed is capacity that's otherwise there, and that  
7                   each party is otherwise going to have to -- is going to  
8                   have to incur the expense for.

9                   So the only point to look at is what is  
10                  their cash out-of-pocket to go that way? And that  
11                  would be the actual transiting charges that Qwest would  
12                  bill.

13                  Because, if you're really talking about  
14                  what's efficient, what's economically efficient is  
15                  what's the least cost dollars, not what are allocations  
16                  for costs that's going to exist anyway, and that won't  
17                  be impacted one way or the other.

18                  In scenario two, however, we said, but even  
19                  if you allocated those costs, it's not that much.

20                  And there we -- we -- in scenario two we  
21                  said, Okay. Let's allocate each party's costs, or try  
22                  to estimate what each party's costs on an allocated  
23                  basis would be, to use that capacity that they have in  
24                  place anyway.

25                  But that would not be cash out-of-pocket.

1 Q. Which is the more realistic scenario?

2 A. Well, in terms of what it's going to cost  
3 each party, in terms of actually dollars out of my bank  
4 account, scenario one.

5 Scenario two is just saying, Well, we'll  
6 attribute costs that we're otherwise going to incur to  
7 this activity, but it's not going to be dollars out of  
8 anybody's pocket.

9 Q. Now, this transiting cost would be costs  
10 Uinta Basin would have to pay that they don't currently  
11 pay.

12 A. Correct.

13 And it would be a cost obviously that we  
14 don't currently pay either.

15 Q. Now, have you ever had a situation where, in  
16 order for you to avoid the higher cost of direct  
17 connection, that you pay their incremental costs?

18 A. We've never had that situation.

19 Q. Wouldn't that be reasonable?

20 A. No. It's entirely not reasonable. The  
21 principal underlying the entire American  
22 telecommunications system is that the service-providing  
23 party pays the freight on their own traffic.

24 And in this case, especially when their --  
25 their incremental -- their actual total incremental

1 expense here is going to be a transiting charge, which  
2 should be, until we get to a point of a DS1, should be  
3 substantially less than their -- you know, their  
4 expense for direct connection, it is no reason for us  
5 to pay their transiting expense.

6 Q. What makes up this \$175 charge for the  
7 direct connection for them?

8 A. That -- that 175, as I mentioned earlier,  
9 was just a raw assumption, to show -- for all I know  
10 their costs could be substantially higher for direct  
11 connection.

12 But it would be, you know, the -- their  
13 amortized cost for -- for establishing a trunk port on  
14 their switch, programming it, doing whatever they have  
15 to do. But, you know, the physical hardware for that  
16 dedicated trunk port, because it would be a unique -- a  
17 unique set of ports that would be dedicated solely to  
18 traffic exchange between us and them, plus some --  
19 something for the transport facility that they would  
20 have to establish between their -- between their office  
21 and our POI -- and the POI.

22 Q. So where did the 175 come from?

23 A. It's -- as I explain here, they're just  
24 rough numbers. They're -- you know, I can't vouch that  
25 they're true costs. All I can say is that, you

1 know, they -- they list in their access tariff a  
2 dedicated entrance facility price of \$125.

3 And so I said, Well maybe their cost is 75,  
4 maybe it's much closer to 125. I don't know.

5 And for trunk ports, I just said, you know,  
6 looking out at, you know, what -- what different  
7 players have -- have, you know, as amortized trunk, you  
8 know, port costs on a switch, \$100 is probably low.  
9 But I didn't want to bias this by making it look like,  
10 Oh, this is extremely expensive. And so I didn't want  
11 to artificially put indirect in an artificially  
12 favorable light.

13 It's a nice round number. But, you know,  
14 obviously should they, you know -- you know --

15 It's something. But, you know, it could be  
16 higher or lower. But I -- you know, it's probably not  
17 terribly far removed.

18 Q. But for the indirect connection, assuming  
19 that there is capacity on that trunk group, those are  
20 the only incremental costs that Uinta Basin would  
21 incur?

22 A. Yes. Scenario one would be -- would be the  
23 only incremental expense they'd have.

24 Q. In your introductory statements, you gave,  
25 as your first criteria, that this agreement should

1 reach industry norms?

2 A. Yes.

3 Q. And just to make sure that -- the indirect  
4 interconnection that you are defining, where you would  
5 use a third-party tandem outside of the local service  
6 area, outside of the exchange, essentially using a  
7 third-party such as Qwest, is standard practice.

8 A. It's very standard practice. I've seen it  
9 in many, many interconnection agreements. It's how  
10 wireless carriers typically connect to independent  
11 carriers. It's how CLECs typically connect to each  
12 other and to independent carriers, whether it's for EAS  
13 or local, or intraLATA.

14 As I've stated, we have agreements with two  
15 independent LECs that call for indirect interconnection  
16 first. One was with Century -- actually, we had two  
17 agreements with Century Tel in different states. The  
18 first one we started out indirect. We have since  
19 graduated to direct.

20 That was for local traffic, within their  
21 service territory, where we were both operating. But  
22 the tandem was distant. A Qwest tandem at a location  
23 outside that service territory.

24 The TCT West agreement, with the company in  
25 Wyoming, I'm not sure if that has -- that was recently



1 executed. I think we're in the process of implementing  
2 it.

3 But that also calls for indirect  
4 interconnection until we reach a threshold, and then  
5 moving to direct. Where we're directly competing in  
6 their service territory and exchanging local traffic,  
7 but the tandem is a Qwest tandem distant from that  
8 territory.

9 And that's -- and as I say, it's true of  
10 ILECs, CLECs, and wireless across the country.

11 And there's no tech -- you know, I've --  
12 looking in the LERG, I see no reason that it's not  
13 technically feasible to use that -- the Provo tandem to  
14 do the same thing in this case.

15 Q. Let's -- I want to move on to another  
16 subject.

17 A. Sure.

18 Q. And that's compensation.

19 A. Sure.

20 Q. Now, is there any disagreement anymore on  
21 the type of traffic that will be subject to  
22 compensation; i.e., being traffic that is local within  
23 the Vernal exchange, EAS traffic that is -- is  
24 considered local -- subject to bill-and-keep or  
25 reciprocal compensation, that is I guess terminated

1 within the EAS calling area, or ISP traffic? Is that  
2 right?

3 A. The -- well, obviously the compensation that  
4 we're proposing is different, but my understanding is  
5 is that the traffic types are not in dispute currently.

6 Q. Okay.

7 A. But I would also add that I don't believe  
8 that they were ever in dispute.

9 The Witness Wimer's testimony in particular  
10 went to great lengths to portray that we had proposed  
11 compensating EAS traffic at switched access rates.  
12 That was -- that was a mis-reading, because in the  
13 original agreement that we had proposed, local traffic  
14 was specifically defined to include mandatory EAS  
15 traffic.

16 And I -- and so EAS and ISP traffic were all  
17 going to be exchanged subject to the same terms in our  
18 original agreement. But, you know, we've -- you know,  
19 we've now red-lined their agreement, and because we had  
20 no disagreement with those three types of traffic,  
21 we're fine, you know, continuing.

22 Q. The differences appear to be what the  
23 compensation rate should be for terminating traffic,  
24 and you proposed some .0007.

25 A. Triple 07.

1 Q. Triple 07, which is -- as I understand it,  
2 is some sort of Federal default rate or something?

3 A. It's a default rate that was identified by  
4 the FCC, and has been employed across the country since  
5 that time for out of balance traffic, where, you know,  
6 one party is worried -- you know, where the parties  
7 want to exchange local and ISP traffic, you know,  
8 without -- you know, at the same rate, then that rate  
9 has been a fall-back where there's not some other cost  
10 information available.

11 And, you know, and what we've proposed is  
12 that we would have bill-and-keep up to a threshold of  
13 60 percent in one direction or the other, which is also  
14 fairly -- become fairly typical in the past few years.

15 And the triple 07 rate, for traffic out of  
16 balance, because we didn't have any cost information  
17 that we could solidly look at. And this was a widely  
18 recognized and employed default. But frankly, we have  
19 a high expectation that we would be in balance, you  
20 know, pretty much without exception.

21 Q. And Uinta Basin is proposing to charge a  
22 .012 rate, plus a flat charge.

23 A. No, they're not proposing \$0.012, but  
24 0.12 -- I'm sorry, 1.2 cents. They're proposing 1.2  
25 cents, not 0.12 cents.

1 Q. Okay.

2 Plus the flat rate charge?

3 A. Plus a flat rate charge, yes.

4 Q. Now --

5 A. Both of which, I might add, are -- I've  
6 never seen the EAS charge anywhere like that. That  
7 would be a -- not in a -- not in a usage, but rather  
8 on -- for every customer you win, you pay us an annuity  
9 for the rest of time. That's entirely -- I've never  
10 seen that in any Interconnection Agreement. It's  
11 entirely opposite. Because to the extent we win  
12 customers who have little or no EAS, what would we be  
13 paying them for?

14 Q. Did you determine where the proposed 1.2  
15 cent charge comes from?

16 A. I've seen it in their other -- in some of  
17 their other wireless agreements, which, as I  
18 understand, were negotiated.

19 Q. And do you happen to know whether that  
20 charge is in the Western Wireless agreement?

21 A. I do not know. I don't recall.

22 Q. Did you look at how that agreement, or  
23 that -- how that charge was developed at all?

24 A. I wasn't aware that it was developed, other  
25 than that it was in the agreement.

1 Q. Now, the -- you're proposing to use -- start  
2 off with an assumption that you'll be in balance. Is  
3 that right?

4 A. Yes.

5 Q. And use bill-and-keep?

6 A. Yes.

7 Q. Uinta Basin is -- testimony was that they  
8 think you'll be out of balance, and they want to start  
9 off with the assumption that you'll be out of balance  
10 and use reciprocal compensation. Is that right?

11 A. That's -- well, I don't know if they've --  
12 have an assumption about out of balance, but they just  
13 said that they want reciprocal compensation.

14 I can say that we -- all of our agreements,  
15 that we have in place, both for us that -- where we're  
16 operating directly and where we're using a  
17 subcontractor, start with bill-and-keep up to a  
18 60 percent threshold. And, in fact, none of those  
19 agreements have ever gone out of balance. And so all  
20 of our traffic is -- is on a bill-and-keep, with all of  
21 the LECs that we -- with which we interconnect.

22 Q. Do you oppose the idea of starting with  
23 reciprocal compensation, and if in balance, whatever  
24 the threshold ultimately is decided to be, that you  
25 switch to bill-and-keep?

1           A.    I guess we would be switching the first  
2 month, so I -- I guess operate -- you know,  
3 fundamentally it would be the same thing.

4            You know, you can say we -- we -- you know,  
5 we start at recipro -- we start with the presumption of  
6 recip comp, and go to bill-and-keep if we're in  
7 balance, or we can start the other way.  Yeah.

8           Q.    They seem to fundamentally disagree that --  
9 whether they'll be in balance or not.

10          A.    I don't know why they would think that.  
11 They would have no basis to believe that.

12                By in large, unless one company is --  
13                Other than situations where you had one  
14 company that was choosing not to -- or choosing to  
15 focus on just one significant segment of a market, but  
16 leaving other significant segments un -- unaddressed,  
17 or where you've got a situation where one party is  
18 making its business plan on dial-up internet services,  
19 you have every expectation that traffic is going to be  
20 in balance.

21                Residential customers, by in large,  
22 originate and terminate the same amounts of traffic.

23                Business customers, you know, depending on  
24 the size of the business, small businesses may tend to  
25 have slightly more in-bound traffic than outbound

1 traffic, but what we've found is that our traffic,  
2 because we serve in a -- you know, we're looking to  
3 serve both residential and business, but, you know,  
4 mostly residential, it's almost always going to be in  
5 balance. And I mean really closely in balance.

6 And that's -- you know, we're not -- as I  
7 mentioned in my testimony, we're not targeting dial-up  
8 ISPs, and, you know, this is a small predominantly  
9 residential market, so we're targeting same -- we're  
10 going to be targeting all of the same customers that  
11 they're targeting, the same segments.

12 And because they already have flat rate  
13 local and flat rate EAS calling, it's not like we're  
14 going to be attracting customers who are more apt to be  
15 heavier users than their typical customer.

16 Q. Another issue that Uinta Basin has raised is  
17 that the 60 percent is a significant amount of traffic  
18 to be out of balance that is going uncompensated. Is  
19 that right? Fair way to put it?

20 A. That -- I did read that in their testimony,  
21 yes.

22 Q. Now, if the Commission was trying to set an  
23 in-balance rate that would neither harm nor hurt either  
24 company, wouldn't the best way to do it just use  
25 reciprocal compensation for whatever traffic there is,

1 gets paid for?

2 A. You know, it's -- if the reciprocal  
3 compensation rate is set at a proper level, you know,  
4 it's not -- you know, it's not -- it's not a bad thing  
5 to do reciprocal compensation. It's just simpler,  
6 faster, less prone to billing disputes and other kinds  
7 of potential mischief to go with bill-and-keep, when  
8 you can clearly discern that it's -- it's going to be  
9 within a balanced range.

10 Across, you know, the industry, we typically  
11 see a 60 percent balance, you know, as the standard.  
12 It seems to work fine.

13 You know, it's not like they're going to be  
14 unique problems to UBTA UBET that haven't been -- you  
15 know, that haven't been discovered in other places.

16 And it's also -- you know, many Commissions  
17 have found that that's a reasonable, you know, balance.  
18 That it may -- from month to month it may move in one  
19 direction or the other, depending on traffic patterns,  
20 or if one company or another is adding customers of  
21 different segments, but over time it tends to balance  
22 out.

23 Q. Is it your position that the -- this triple  
24 3.7 rate, are Commission's required to use that rate  
25 for out-of-balance traffic?



1 A. If you're referring to the triple 07?

2 Q. Right, that you're proposing?

3 A. No. It's not at all -- we originally  
4 proposed that rate because we didn't have any -- we  
5 didn't have any cost basis to try to determine what the  
6 appropriate interconnection rate would be.

7 And that was a, you know, an available  
8 default. We're not necessarily wedded to it.

9 You know, there may be a better rate that we  
10 could -- you know, and that would be fine also.

11 Q. Well, what would that better rate be, other  
12 than the one that they proposed?

13 A. You know, I could -- I could very easily --  
14 well, the one that they proposed is far outside the  
15 mainstream. I haven't seen anything like that in ten  
16 years.

17 Q. Well, it was in a current interconnection  
18 that they have with Western Wireless?

19 A. But that was a -- my understanding, and I  
20 don't know for sure, is that their agreements were --  
21 that, at least on compensation, were voluntarily  
22 arrived at. That doesn't mean that --

23 This is an arbitrated agreement.

24 Q. Do you happen to know whether that -- would  
25 you accept that it was an arbitrary agreement that was

1 agreed to at the end of testimony and an arbitration  
2 proceeding being filed?

3 In other words, as I understand it, they  
4 ultimately reached an agreement.

5 Did you look at that docket at all?

6 A. I -- I may have reviewed it. I don't -- I  
7 don't specifically -- I didn't go through the  
8 Commission order on that issue.

9 But it was my understanding, from  
10 conversation, that, you know, is not direct  
11 understanding, but that that specific number was not,  
12 in fact, the result of a Commission order, but was, in  
13 fact, a settlement. But maybe that -- that's my  
14 understanding.

15 Q. But it's a rate that Uinta Basin has agreed  
16 to with another carrier that, in theory, that recovers  
17 their cost of terminating either local or EAS traffic  
18 in their exchanges.

19 A. Well, agreements that are voluntarily  
20 reached are -- you know, the only requirement  
21 agreements or settlements of points in agreements that  
22 are voluntarily reached is that they be -- that those  
23 same terms be offered on a non-discriminatory basis to  
24 other parties.

25 In this case, what we're saying is that's

1 a -- is not an appropriate rate. It does not appear to  
2 be cost-based.

3 And, you know, if the Commission is -- you  
4 know, is uncertain about the 0007, which, as I say, was  
5 inserted originally as a placeholder, because we had no  
6 other data, I would probably point, as the next best  
7 number, to the Qwest Utah SGAT price list, which has  
8 local EAS termination rate and office call termination  
9 rate, and has three rates: Urban, suburban, and rural.

10 And, in fact, the rural number, my  
11 understanding, was based on a group of exchanges of  
12 which, when it was originally calculated, which  
13 included Vernal, Roosevelt, and Duchesne. It says  
14 those exchanges subsequently acquired by UBTA UBET.  
15 That's my understanding.

16 I would think that that local termination  
17 rate would be a reasonable proxy in this case, in the  
18 absence of other information.

19 Q. Would another alternative be to hold a cost  
20 docket?

21 A. That -- that's always an alternative for the  
22 Commission, and that's certainly within their -- their  
23 discretion.

24 But I would -- you know, our -- my own  
25 company's interests would not be to see an extended

1 cost docket that would require us to incur more expense  
2 and time, because the Commission issued a CPCN to us a  
3 year ago, and we have been stopped from initiating  
4 operations, which we would have intended to initiate a  
5 year ago, because of this procedure, just to get to the  
6 point that they might deign to interconnect with us.  
7 Then to have to incur more expense -- and we love our  
8 attorney, our outside counsel, but we could use that  
9 money more effectively, you know, actually putting it  
10 into providing service for customers.

11 I don't think at this point -- you know, I  
12 think the Commission needs to look at, you know, at a  
13 principal of equity here.

14 Do they have a -- they don't deserve a cost  
15 docket at this point, essentially. They have spent a  
16 year keeping us out of business, denying the customers  
17 of Vernal a choice for telecommunications. So I --  
18 yes, it's within the Commission's discretion, and that  
19 might come up with a good rate, but I think we have a  
20 good rate in the SGAT, that the Commission can look at  
21 and say, if we're going to assign a reciprocal  
22 compensation number, in the absence of UBTA UBET  
23 putting in any cost data in this docket, we shouldn't  
24 reward them by giving them the opportunity for further  
25 delay. Let's take this number that we know applies to

1 rural exchanges in Utah.

2 Q. Were the Qwest rural exchanges as remote as  
3 the rural exchanges of some of the Uinta Basin  
4 exchanges outside of Vernal?

5 A. Well, my understanding is that it included  
6 Vernal, Roosevelt, and -- Vernal, Roosevelt, and  
7 Duchesne. And we are competing directly in Vernal, so  
8 that would cover all local traffic.

9 And it covers Roosevelt and Duchesne, which,  
10 according to the data request response that we received  
11 from UBTA UBET on Saturday morning, and I believe it  
12 was -- or no. I'm sorry. Friday -- Thursday evening.  
13 Last Thursday evening. Something like 90 percent of  
14 the EAS traffic goes to Roosevelt and Duchesne.

15 So, for another ten minutes of traffic per  
16 customer per month, you know, it -- the -- the  
17 remaining traffic that may be outside those three  
18 exchanges is -- is clearly di minimis.

19 Q. Are those SGAT rates that you're referring  
20 to in the record somewhere?

21 A. They were submitted, I believe, as -- by  
22 Mr. Nelson as Exhibit B3 this morning.

23 Q. Can you sort of point out to us where  
24 those --

25 A. It would be on page two of 18, at the top of

1 the page, Section 7.6.1.3. The line item.

2 MR. GINSBERG: If I could take just a  
3 moment.

4 ADMINISTRATIVE LAW JUDGE: Sure.

5 (Whereupon, a discussion was  
6 held off the record.)

7 Q. (BY MR. GINSBERG) Do you happen to know, in  
8 the SGAT that you're referring to, were these created  
9 at the time that those exchanges were owned by Qwest?

10 A. I don't know the exact date that these --  
11 that these particular rates were created.

12 When I spoke to the folks at Qwest, I asked  
13 them what exchanges were used in the creation of these  
14 rates.

15 And my original interest in asking what  
16 exchanges were used in the creation of these rates was  
17 because I wanted to take that group of exchanges, look  
18 at the physical and line density characteristics, and  
19 compare them to the physical and line density  
20 characteristics of the -- of the UBTA UBET territory,  
21 to see if they were a good match. And they provided me  
22 with a list that included the three exchanges that I  
23 mentioned, and said that those three exchanges were  
24 included in the creation of those rates.

25 And so then at that point -- and

1 subsequently I -- my data request response for a line  
2 density, you know, square mileage and number of lines  
3 of each of the UBTA UBET exchanges was not -- they  
4 refused to respond, so, at that point, happily, I  
5 didn't actually need to make that comparison, because I  
6 had Qwest giving me a list saying that these exchanges  
7 were included.

8 Q. Now, were you aware that there was no EAS  
9 between these three exchanges?

10 A. This is -- well, this is a call termination  
11 rate. It doesn't have to do with EAS, it has to do  
12 with any local or EAS traffic that might be going to  
13 that exchange.

14 Q. But it wouldn't cover the cost of  
15 terminating calls between the three exchanges. Those  
16 would be interexchange calls, would they not?

17 A. I don't know if -- if that's the case or  
18 not, but I would then speak to the issue of, you know,  
19 there's a retail side and a -- and the wholesale side.  
20 And typically, when we're doing reciprocal  
21 compensation, there's not -- you pay reciprocal  
22 compensation in a host remote situation.

23 Now, there are variations out there, but  
24 most of the situations I've been involved in, and that  
25 I'm aware of, you pay reciprocal compensation at the

1 host office. The host office, for all nine -- or ten  
2 of the UBTA UBET exchanges is Vernal.

3 But, you know, if -- if, in fact, there was  
4 some, you know, additional compensation that the  
5 Commission would want to allow for that transport  
6 between the host and the remote, which, as I say, is  
7 not in the mainstream of interconnection agreements,  
8 it's assumed that the end office termination covers  
9 everything to the subtending remotes.

10 You can again look at that same SGAT, and I  
11 would say that the -- that the tandem transmission per  
12 MOU, not -- not the tandem switching element, but the  
13 tandem transmission element, which is a mileage-based  
14 element, would be, you know, a reasonable additive --  
15 could be a reasonable additive, if, in fact, the  
16 Commission wanted to order an additive for exchange --  
17 for EAS to the exchanges outside of Vernal.

18 And in my response to the staff data  
19 request, I actually show what that would look like in  
20 the last page of the spreadsheet. And it would come up  
21 to about -- using those Qwest rates, about 0008 for the  
22 additive to the end-office termination rate, to go to  
23 the remote rate cents.

24 MR. GINSBERG: Thank you.

25 MR. MECHAM: Your Honor, can I ask a couple



1 of questions that I asked earlier before you go to  
2 redirect?

3 ADMINISTRATIVE LAW JUDGE: Go ahead.

4 RECROSS EXAMINATION

5 BY MR. MECHAM:

6 Q. Mr. Harris, earlier I asked you about the  
7 Federal law, Section 251(c)(2), and we talked about  
8 interconnecting within a carrier's network.

9 My understanding is is that the meet point  
10 between UBTA UBET and Qwest is at a place called  
11 Whiskey Springs. So their network ends at that point,  
12 and then the Qwest facilities come out.

13 So with the network -- would interconnecting  
14 with UBTA UBET's network only take you to Whiskey  
15 Springs?

16 A. I'm sorry. Take who?

17 Q. Well, let me ask you this.

18 UBTA UBET's network goes to Whiskey Springs;  
19 thereafter, it is Qwest's network that goes to the  
20 Provo tandem.

21 A. Okay.

22 Q. So if the law here, or the law -- the  
23 Federal law were that you had to interconnect within  
24 the UBTA network, wouldn't that end at Whiskey Springs?

25 A. Well, in the Federal side, it's been widely

1 determined and agreed that, in fact, if you're meet --  
2 that an indirect interconnection, you are  
3 interconnecting at -- within the network, and that the  
4 transiting is -- is part of it.

5 Q. Interconnecting with what network?

6 A. We're not --

7 Q. UBTA --

8 A. UBTA is not being required to extend  
9 facilities anywhere that they don't already have them.

10 In fact, they're not being required to  
11 extend facilities, period, in any indirect  
12 interconnections.

13 All I know is -- and you're asking me a  
14 point of law and I'm not an attorney, but all I know is  
15 that nationwide, no one has found that indirect  
16 interconnection has been invalidated by the terms  
17 within their network.

18 Q. Would you accept, subject to check, that the  
19 Whiskey Springs meet point is actually right at the  
20 border of the service territory of UBTA UBET?

21 A. Network and service territory two different  
22 things.

23 Q. What I'm saying is their network ends at the  
24 end of their service territory.

25 A. I have no -- I have every expectation that's

1 the case. That's typically how border meets work.

2 Q. And so wouldn't it be -- wouldn't the  
3 question be is it technically feasible to interconnect  
4 at Whiskey Springs, not at the Provo Qwest tandem?  
5 Which is their facility?

6 A. Well, they're not interconnecting at the  
7 Provo Qwest tandem. They're interconnecting -- their  
8 interconnection is already existing to this Provo Qwest  
9 tandem at Whiskey Springs.

10 We're just using the platform between  
11 Whiskey Springs and Provo -- and our network to  
12 complete traffic.

13 Your -- your question is confusing direct  
14 interconnection with a physical POI. We're not  
15 establishing a new facility between our networks, we're  
16 using existing facilities.

17 Q. I understand that. But it's a question of  
18 whose facilities and whose network.

19 A. And I guess my answer would be, nationwide,  
20 it's taken as a for-granted that interconnecting within  
21 one's network includes interconnecting via indirect  
22 interconnection via third-party tandem.

23 Q. Even if that includes network of a  
24 third-party?

25 A. Well, the third-party is then the transiting

1 provider. But you're already interconnected, and I  
2 will already be interconnected, and so indirect  
3 interconnection, we're each interconnected within our  
4 own network, and then we're transiting a third-party  
5 network to complete.

6 Q. If you were interconnecting at the meet  
7 point, you would be responsible to transit both ways,  
8 wouldn't you? From the meet point to the tandem and  
9 back?

10 A. Well, if they were interconnecting with us  
11 on the other side of the Provo tandem, they would be  
12 responsible for transit both ways.

13 Q. That's not what they're seeking to do.  
14 You're the one seeking to interconnect.

15 A. I actually have a right to interconnect, and  
16 they have a responsibility to interconnect with me, and  
17 vice versa.

18 Q. But the right is to interconnect within the  
19 network, and that's, I guess, what I'm disputing.

20 MR. NELSON: I'm going to object to that  
21 question. I think by characterizing it as the "right,"  
22 we've now gone beyond the idea of taking Federal law as  
23 a guidepost, and establishing the Federal right as the  
24 issue, which I think Mr. Mecham has gone to great  
25 lengths to say that this proceeding is not about

1 Federal rights. And so I would object to that question  
2 as beyond the scope of the proceeding.

3 MR. MECHAM: Well --

4 ADMINISTRATIVE LAW JUDGE: Do you want to  
5 respond?

6 MR. MECHAM: Yeah. It's -- I think I'll let  
7 the witnesses take that issue on, because I don't think  
8 we're going to get much further on this point.

9 MR. GINSBERG: Could I try? Maybe I could  
10 follow up.

11 ADMINISTRATIVE LAW JUDGE: I guess your  
12 objection is sustained, so go ahead, Mr. Ginsberg.

13 CROSS EXAMINATION

14 BY MR. GINSBERG:

15 Q. Isn't the real issue that each party is to  
16 pay their own cost up to the point of interconnection?

17 A. Indirect -- indirect interconnection, each  
18 party pays their costs to the POI. In direct  
19 interconnection, each party pays their own cost of  
20 transiting.

21 Q. The State rules don't make that distinction,  
22 do they?

23 MR. MECHAM: No.

24 Q. (BY MR. GINSBERG) The State rules say, you  
25 know, point of interconnection which each party is

1 supposed to pay their costs. Indirect interconnection,  
2 is it even mentioned in the State rules?

3 A. It's not mentioned in the passage that  
4 counsel for URTA read to me either.

5 Q. So how would it, though, actually change the  
6 costs that you represented?

7 Wouldn't you just have to pay a little  
8 higher transiting charge? Or maybe Uinta Basin would?

9 A. Well, we -- if we were responsible for  
10 paying the transiting in both direction, they would  
11 have no transiting, and we would have all of it.

12 And we would pay them both directions. That  
13 would be the difference.

14 Q. If -- if the -- you pay the cost of  
15 transiting up to the point of interconnection at  
16 Whiskey Springs?

17 A. Well, at that point it would no longer be a  
18 point of interconnection on our network.

19 Their network is -- ends at Whiskey Springs.  
20 Our point of interconnection will be the other side of  
21 the Provo tandem. And transiting is what -- is what  
22 connects us between -- but that's a POI between us and  
23 Provo, and Whiskey Springs is the POI between -- or  
24 meet point between UBTA and Qwest.

25 So each of us has got a physical

1 interconnection with -- on our own network, and at that  
2 point we're paying transiting for our own originated  
3 traffic.

4 Q. So the cost would be just double these  
5 amounts in Exhibit 1 for you?

6 A. Yes.

7 I mean, as a principal, that's pretty far  
8 afield from what you find in the industry. It's not --  
9 I won't say that it's unheard of, but it's not -- it's  
10 not what you typically find in an arbitration.

11 I've seen some voluntary agreements where  
12 that has been agreed to because the party -- the -- the  
13 new entrant was desperate to get into business and was  
14 willing to make that sacrifice.

15 Q. It's still pretty minimal compared to your  
16 \$6,000 direct interconnection cost.

17 A. You know, my backhaul network is going to be  
18 my -- my expense regardless. I'm -- you know, I -- I  
19 would -- with any luck, we'll get to direct  
20 interconnection fairly quickly, so that's not going to  
21 be, you know, an important issue for me.

22 Q. But isn't that costs you avoid until you  
23 need to go to that?

24 A. It is a cost that I avoid, that is true.

25 But the principal was we want to stay -- you

1 know, what's industry standard? The principal that the  
2 originating party is responsible for their costs.

3 Q. You're not anxious to get in business?

4 A. I am anxious.

5 Q. We're going through this proceeding over  
6 \$130 a month?

7 A. I didn't want to go through this proceeding  
8 at all. I wanted to interconnect a year ago. I'm here  
9 against my will and against my desires. You know, not  
10 against my will, but certainly against my desires.

11 MR. GINSBERG: Thank you.

12 ADMINISTRATIVE LAW JUDGE: Okay. Redirect?

13 MR. NELSON: Yes. Thank you.

14 REDIRECT EXAMINATION

15 BY MR. NELSON:

16 Q. Mr. Harris, let me start by asking, do you  
17 recall the series of questions that you had from  
18 Mr. Ginsberg, from the Division, regarding the  
19 spreadsheet that you have on the back of Exhibit B2?

20 A. Yes.

21 Q. All right. I want to start with that.

22 And there was a series of questions  
23 regarding, on page three of three, of the second piece  
24 of that. So the second to the last page, if you  
25 would --



1 A. Mm-hmm.

2 Q. -- of the document.

3 There was a series of questions about the  
4 number that you included there of \$1,698 as the total  
5 for Bresnan. Do you recall those questions?

6 A. Yes.

7 Q. And there was no discussion about whether or  
8 not you would need to incur that \$1,698 in either case,  
9 that being direct or indirect. And that's what I  
10 wanted to explore with you for a moment.

11 Okay.

12 Would I be correct that, as you envisioned  
13 this going forward, in the event that the Commission  
14 permits indirect interconnection, the option available  
15 would be to use a trunk group from our facility in  
16 Grand Junction to one of the two tandems that is being  
17 discussed here, either the Qwest tandem or the UFN  
18 tandem? And that it would use that trunk group for  
19 the indirect interconnection, because if we had a trunk  
20 group there, it would have already have to have been  
21 there because of other business needs such as  
22 terminating toll traffic? Is that right?

23 A. Yes.

24 Q. Is that right?

25 A. That is correct.

1           Q.    So in the event of indirect interconnection,  
2           all that's necessary is one trunk group from  
3           Grand Junction to one of the two tandems in Utah.  Is  
4           that fair?

5           A.    Well, it's a trunk group that will already  
6           be existing, yes.

7           Q.    Okay.

8                     Now, what happens, incrementally, if there's  
9           a requirement for direct interconnection?

10                    That is, incrementally, are there additional  
11           trunk groups that are necessary to accomplish that from  
12           Grand Junction to some other point in Utah?

13           A.    If there is a -- if we -- when we go, for  
14           instance, if we go to direct interconnection, we -- the  
15           trunk group to the tandem would still be in place for  
16           these other traffic types.

17                    That's for other traffic types into and out  
18           of our operation in Vernal, I might add.

19                    It would be solely for Vernal operation.

20                    And an additional trunk group, then, into  
21           Vernal, for a direct connection to UBTA UBET.

22                    And I might add, that that number includes  
23           an assumed amount for an amortized port.  The actual  
24           amount that we would pay for that direct trunk is  
25           \$1,598.

1 Q. Okay.

2 So that incremental amount is the amount of  
3 adding that second trunk group, which is unnecessary in  
4 the event of using indirect interconnection?

5 A. Yes.

6 Q. Similarly, then, on the other side of the  
7 column, the UBTA UBET total, in indirect  
8 interconnection, the idea would be that there would be  
9 just a single trunk group from Vernal to one of these  
10 two tandems. Is that right?

11 A. For us?

12 Q. For UBTA UBET.

13 A. Well, the -- no. UBTA UBET already has  
14 those trunk groups in place.

15 Q. Right.

16 A. So they would not be adding a trunk group  
17 and/or capacity. They would just be sending traffic  
18 over an -- over the existing capacity of an existing  
19 trunk group.

20 Q. Okay.

21 And in the event of direct interconnection,  
22 what incrementally does UBTA UBET have to do to  
23 accomplish direct interconnection at the meet point  
24 they've suggested?

25 A. They would add a port. To the extent there

1 was not an available port on their switch today, they  
2 would add a new port, and they would extend a facility  
3 to the extent there is not an existing facility there  
4 today.

5 Q. Okay.

6 A. And they would have whatever maintenance,  
7 because there are -- you -- there are some ongoing  
8 maintenance for each trunk group. You know.

9 Q. So then the page three of three analysis,  
10 that presumes the existence of those indirect  
11 interconnection trunks, and what you're describing here  
12 is just the incremental cost of adding the additional  
13 trunk for Bresnan, or the additional facilities for  
14 UBTA UBET?

15 A. Yes.

16 Because the indirect will still be in place,  
17 because those trunk groups have other needs.

18 And as a secondary path, that path would  
19 still be available.

20 That's the other advantage of indirect  
21 interconnection, is that if, for whatever reason, the  
22 primary direct path is, you know, served, or goes down  
23 for any reason, there's a -- you know, someone is  
24 digging in the street and cuts it, you have a secondary  
25 path in.

1                   And that's -- you know, that's one of the  
2           advantages.

3           Q.    Okay.

4                   With respect to the indirect interconnection  
5           concept, I think you testified that there were existing  
6           trunks between UBTA UBET, and, for example, the Qwest  
7           Provo that, according to the LERG, currently have, on  
8           that feature group B, as in boy, switched access being  
9           transferred.  Is that --

10          A.    Yes.

11          Q.    Okay.

12                   What, if anything, is necessary to do to  
13           that facility to also run local interconnection traffic  
14           over that same wire or line?

15          A.    Okay.

16                   Well, my understanding is that that -- that  
17           trunk group today carries feature group B, as in boy,  
18           traffic and IntraLATA toll traffic.

19                   And it's listed in the LERG for both -- for  
20           both traffic types as for both originating and  
21           terminating, meaning that it's capable.  Whether or not  
22           they're actually sending that traffic, but it's  
23           currently capable of sending those two types of  
24           traffic.

25                   My understanding is that with those two

1 traffic types on the same trunk group, that that is a  
2 common type trunk group. And so that the only in  
3 addition -- additional thing that would have to be done  
4 would be translations on the switch. Translations that  
5 will have to be done in any case when we begin to  
6 interconnect, because we're opening up a new number  
7 block, and opening up an LRN associated with that rate  
8 center.

9           So they're going to have to point those  
10 translations at something, and they'll say point at  
11 this existing trunk group instead of pointing it at  
12 this new trunk group.

13           Q. And if that trunk group is using, then, both  
14 the current traffic that's on there for feature group  
15 B, for example, and the IntraLATA toll, and you add to  
16 that local interconnection traffic, what, if any,  
17 problems are created with respect to the termination of  
18 those local calls in the context of any risk of losing  
19 signaling information, or other information that the  
20 network needs to terminate those and route those calls  
21 correctly?

22           A. There shouldn't be any, because the SS7  
23 network, which sends the signaling and the parameters  
24 is -- is a different -- you know, is an out-of-band  
25 network. It does not ride the same pathway as the

1 content.

2 Q. Okay.

3 There was a discussion at the end of the --  
4 your cross-examination about Whiskey Springs and the  
5 meet point between the Qwest network and the UBTA UBET  
6 network at the border between the two service  
7 territories. Do you recall that discussion?

8 A. Yes, I do.

9 Q. Can you explain what the -- when you have a  
10 trunk group that is a joint-use facility, what rights  
11 would the carriers on either side of that facility  
12 ordinarily have to make use of that trunk group on the  
13 other side of the border to have traffic going back and  
14 forth?

15 A. Well, in general, when you have an  
16 Interconnection Agreement, you're operating as  
17 co-carriers, and each party takes responsibility for  
18 their own originating traffic.

19 And that -- that's the guiding principal for  
20 both indirect as well as direct interconnection.

21 Q. So when you have a -- a facility that's  
22 owned by two different interconnecting carriers that  
23 agree on a meet point, is it typically the case that  
24 one carrier, for example, owns the facilities for half  
25 of it, but then has a right to use the other half of it

1 to terminate its traffic?

2 A. It varies, but, you know, the understanding  
3 is -- you know, there are different compensation  
4 structures out there, but the assumption is you're  
5 responsible for your -- to get your traffic to the POI,  
6 and I'm responsible to get my traffic to the POI.

7 Q. Okay. And what happens to the traffic on  
8 the other side of that POI? Do you have a -- do you  
9 have a right to have that traffic be continued by the  
10 other carrier to its destination?

11 A. Yes. I mean, yeah. In a direct  
12 interconnection, once it -- you know, once it's handed  
13 off, the other carrier has the responsibility to  
14 complete it.

15 Q. Okay.

16 MR. NELSON: Thank you. I have no further  
17 questions.

18 ADMINISTRATIVE LAW JUDGE: Thank you. Let's  
19 go ahead and move on then to UBET.

20 MS. SLAWSON: Your Honor, I have a couple of  
21 follow-up questions for Mr. Harris, if you don't mind.

22 ADMINISTRATIVE LAW JUDGE: How much time do  
23 you need?

24 MS. SLAWSON: I don't know, ten minutes.

25 THE WITNESS: I've just had a drink of



1 water. Let's go.

2 MS. SLAWSON: I'm going to take a cue from  
3 my table and stay seated. Can you hear me?

4 THE WITNESS: I can hear you just fine.

5 MR. NELSON: If I might ask, are these  
6 questions that are relating to the redirect that I just  
7 did, or is this additional cross examination that was  
8 just missed the first time around?

9 MS. SLAWSON: Well, it's related to some of  
10 the cross-examination that was already had and your  
11 redirect.

12 MR. NELSON: Okay.

13 RE-CROSS EXAMINATION

14 BY MS. SLAWSON:

15 Q. I wanted to clarify with you, is there also  
16 one additional element of cost that would be attributed  
17 to UBET in an indirect connection situation? Wouldn't  
18 they also be charged a tandem switching fee from Qwest  
19 at the Provo tandem?

20 A. Yes. That was included in the transiting  
21 charge.

22 Q. Okay.

23 A. That was tandem switching and transmission.  
24 Everything that I showed in that exhibit, in scenario  
25 one of the data request response, 1.2 and 1.3, to

1 staff.

2 Q. Okay. I've got that there.

3 A. The -- the detail is shown on the inputs tab  
4 of that spreadsheet, but then when I actually show as  
5 the line item is the mileage charges and the fixed  
6 switching charges rolled up.

7 Q. Okay.

8 And looking at that first page still. I  
9 believe you testified, where the figure at the very  
10 bottom of that first page on -- the one with the blue  
11 and the black on it. On the spreadsheet.

12 There you go.

13 A. Yes.

14 Q. The figure at the bottom was 1,598. You  
15 testified where that came from, and I understand that.  
16 But the \$273 figure, is that a figure that you're  
17 already paying, or that you have a -- an agreement to  
18 pay?

19 A. We went to one of our wholesale providers,  
20 and -- actually we went to two wholesale providers, and  
21 these were the best prices from each for those -- two  
22 wholesale providers that could provide those routes,  
23 and we picked the best price from each.

24 Q. Okay.

25 And then one thing that Mr. Ginsberg was

1 going over. On the UBET's trunk capacity, you  
2 indicated there -- that there would be excess -- there  
3 is likely excess capacity on UBET's trunk to the Provo  
4 tandem.

5 And that the theory is that you would use up  
6 that excess capacity until such time as Bresnan reaches  
7 the -- I think it's 512 CCS.

8 A. Yes.

9 Q. When you would convert to a direct  
10 connection. Correct?

11 A. Yes.

12 Q. What would happen if UBET's trunk group  
13 reached capacity before Bresnan reached the threshold?

14 A. Presumably they would have to augment the  
15 trunk group.

16 Q. And that would be UBET?

17 A. Yes. And we would have to augment our side  
18 as well.

19 Well, no. If it's just UBET's own traffic,  
20 they would need to augment the trunk group. Which may  
21 or may not entail any significant costs.

22 If -- if it's a facility that's, you know,  
23 just opening up another channel on a -- on a  
24 multiplexer, it's not a big deal.

25 Q. Okay. But that would be a requirement that

1 UBET would have to meet, and any additional cost  
2 associated with that would be attributed to UBET.  
3 Correct?

4 A. Yes. But by the same token, should we find  
5 ourselves in an exhaust situation, owing to our other  
6 traffic on our side, we would have to have this -- you  
7 know, we would have to have the same -- you know, have  
8 to do an augment as well.

9 Q. Okay.

10 Just a couple more questions.

11 We talked a little bit -- and Mr. Ginsberg,  
12 had touched a little bit on the EAS charges. It looks  
13 to me like on your assumptions page on the EAS  
14 spreadsheet? The last page there of that spreadsheet?

15 A. Okay.

16 Q. I must have been taking notes, but my --  
17 Valerie has indicated that you've already answered that  
18 question, so I don't need to re-ask it.

19 MS. SLAWSON: That's all I have at this  
20 time.

21 ADMINISTRATIVE LAW JUDGE: Okay.

22 Now let's move on to Ms. Wimer.

23 Thank you, Mr. Harris.

24 THE WITNESS: Thank you, Your Honor.

25 MR. NELSON: Are we doing Ms. Wimer or

1 Mr. Meredith first?

2 MR. MECHAM: You know, we can go with  
3 Mr. Meredith first. I think he'll be faster.

4 ADMINISTRATIVE LAW JUDGE: Okay. Okay.  
5 Let's go with Meredith.

6 MS. SLAWSON: Your Honor, can we just take a  
7 quick break?

8 ADMINISTRATIVE LAW JUDGE: Yes. Five  
9 minutes.

10 (Whereupon, a break was taken.)

11 ADMINISTRATIVE LAW JUDGE: Back on the  
12 record.

13 Mr. Meredith, can you raise your right hand?

14 DOUGLAS D. MEREDITH,  
15 having first been duly sworn, was examined and testified  
16 as follows:

17 ADMINISTRATIVE LAW JUDGE: Go ahead,  
18 Mr. Mecham.

19 DIRECT EXAMINATION

20 BY MR. MECHAM:

21 Q. Mr. Meredith, could you state your name and  
22 business address for the record, please?

23 A. My full name is Douglas Duncan Meredith. My  
24 business address is 547 South Oakview Lane in  
25 Bountiful, Utah.

1 Q. And could you state for whom you're  
2 appearing this afternoon?

3 A. Yes. I'm appearing on behalf of Utah World  
4 Telecom Association and UBTA-UBET Telecommunications,  
5 Incorporated.

6 Q. Thank you.

7 And did you prepare pre-filed testimony for  
8 this proceeding that is comprised of six -- questions  
9 and answers in six pages, plus a service -- certificate  
10 of service sheet?

11 A. Yes.

12 Q. Do you have any corrections to that  
13 testimony?

14 A. No.

15 Q. If I were to ask you the questions that were  
16 there, would the answers be the same?

17 A. Yes.

18 Q. Do you have a summary of the testimony?

19 A. Yes, I do.

20 On behalf of URTA, which is the Utah Rural  
21 Telecom Association, and UBET -- UBTA UBET, which I'll  
22 refer to as UBET, I address two very specific issues  
23 related to the interconnection for essential facilities  
24 requested by Bresnan for UBTA UBET.

25 In particular, I address the issue of the

1 point of interconnection. And we've heard a lot of  
2 discussion about that in -- this morning and a little  
3 bit this afternoon.

4 And my testimony deals with the issues as  
5 related to the State procedures, State law, and the  
6 State regulations, that are -- that are attendant  
7 thereto, and believe that the Commission, in this  
8 proceeding, should make an affirmative declaration that  
9 the interconnection to a carrier's essential facility,  
10 according to State law and the regulations or rules,  
11 should be within the inter -- the carrier, the  
12 requested carrier's local service area, or local  
13 service territory.

14 There are good solid reasons for that, and I  
15 outline that in my testimony.

16 In particular, the request for  
17 interconnection is for the essential facilities of the  
18 carrier, not for another carrier.

19 And the distinction between indirect  
20 interconnection through a Qwest tandem versus the  
21 requirements of the State rules and the State law, as I  
22 understand them, are quite distinct. The regulations  
23 under Federal law are bound by the requirements of the  
24 Federal statute, the Telecommunications Act of 1997.

25 And as a result, the interconnection

1 procedures and processes that are -- that exist, really  
2 throughout other Interconnection Agreements, are not  
3 the same as what we have here.

4 Today, we're in a new world. I believe this  
5 is the first essential facilities interconnection  
6 request under this particular statute in Utah. There's  
7 not -- there's no other -- there's new ground for you,  
8 Your Honor, to determine what that statute requires,  
9 and what the limitations and what the rights are for --  
10 in that statute.

11 And I think we can take -- we have to take  
12 very strict adherence to the State rule and State  
13 regulations with regards to this, because if we do,  
14 like I say in my testimony, if we allow essentially a  
15 back-door through the State requirements to impose the  
16 Federal requirements, essentially going -- going --  
17 instead of through the front door and saying this is a  
18 Federal proceeding and we're actually doing a Federal  
19 proceeding under Section 252, if we go through an  
20 essential facilities proceeding and then actually end  
21 up in a situation where Federal requirements are fully  
22 imposed, we require -- we force UBTA UBET to adhere to  
23 the Federal requirements without the benefit that  
24 Congress provided in both a rural exemption and  
25 suspension and modification of rules if they can show



1 that those rules are not in the public interest, and  
2 burdensome in a variety of ways. UBTA UBET cannot do  
3 that in this proceeding because we're an Essential  
4 Facilities Agreement, and we're following the rules and  
5 the procedures for the State.

6 The second item in my testimony, I deal with  
7 how to begin with an Essential Facilities Agreement,  
8 and how -- why it's very important for the default, or  
9 the -- the Interconnection Agreement to favor the  
10 certain provisions for UBTA UBET.

11 And the reason why that is the case is we've  
12 heard today that there's lots of situations or  
13 red-lines that Bresnan has imposed in the agreement to  
14 limit, saying Bresnan's not going to do nomadic, and so  
15 we don't have to have a nomadic provision in the  
16 agreement. Bresnan is not going to do wholesale  
17 services, and so we don't have to say that -- or narrow  
18 the agreement so that -- to affirmatively state that  
19 the carrier is not providing wholesale services.

20 We also have another example of Bresnan says  
21 that their traffic is not going to be out of balance,  
22 and so we should start with a proposed bill-and-keep  
23 arrangement for the mutual exchange of traffic, or for  
24 the compensation of mutual exchange of traffic.

25 All of those provisions deal with what

1       Bresnan is doing, but there's a fundamental requirement  
2       that this agreement is offered to all other carriers;  
3       telecommunications carriers in the Vernal area. So we  
4       can have a situation, and this extends not only to this  
5       particular proceeding but to the other proceedings that  
6       will follow under the essential facilities provisions,  
7       where we have a very -- an agreement that does not have  
8       those safeguards, that ensure that nomadic traffic is  
9       not going to be included, and wholesale services are  
10      not going to be included, and that we have strict  
11      provisions for the mutual exchange of traffic.

12                 Those provisions will be opted in wholesale  
13      automatically by another carrier, who might have other  
14      intents and designs than what Bresnan has. And that's  
15      one of the reasons why it's very important to take  
16      pause and realize that some of those provisions in the  
17      agreement are established for the protection of UBTA  
18      UBET for other carriers that might come in.

19                 It's no harm no foul essentially. We've  
20      heard that today. No harm no foul for Bresnan, because  
21      they're not going to be doing these things. And if  
22      they're not going to be doing them, having it  
23      specifically in the agreement is actually very healthy  
24      for the public interest, because it does protect future  
25      opt-in for the carrier.

1                   That's the summary of my testimony, on those  
2 two points.

3                   MR. MECHAM: Thank you.

4                   Your Honor, I would move for the admission  
5 of URTA-1, which is Mr. Meredith's testimony, and which  
6 the court reporter has already marked as URTA-1.

7                   ADMINISTRATIVE LAW JUDGE: Okay. Any  
8 objections?

9                   None? Go ahead and admit it. Thank you.

10   (Whereupon, Exhibit No. URTA 1  
11   was admitted.)

12                   MR. MECHAM: Thank you. Could I --

13                   ADMINISTRATIVE LAW JUDGE: Uh-huh.

14                   Q. (BY MR. MECHAM) Mr. Meredith, were you in  
15 the hearing room during Mr. Harris's testimony, who  
16 testified in behalf of Bresnan?

17                   A. Yes, I was.

18                   Q. Do you have any testimony in the nature of  
19 rebuttal to that testimony?

20                   A. Well, I would like to comment on an exhibit.  
21 The exhibit -- I believe it's marked B2 -- that has  
22 some of the financial information.

23   I've reviewed that since I've -- since I  
24 received it on Friday, and have some comments that  
25 might be helpful to Your Honor in dealing with it.

1                   The -- first of all, the scenario one  
2 clearly assumes -- and Mr. Harris stated this -- that  
3 the assumption is that there are no new facilities that  
4 are going to be needed between UBTA's Vernal -- UBTA's  
5 Vernal office and the Provo tandem.

6                   And there was some discussion as to whether  
7 there's -- if that -- if that -- if there's excess  
8 capacity, because Bresnan essentially wants to use the  
9 excess capacity.

10                   In a response to -- directly to the  
11 Division's data request, UBTA UBET said that in order  
12 to do this type of an interconnection, that UBTA and  
13 UBET would have to establish another trunk group.

14                   And Mr. Harris was puzzled by that. He  
15 really didn't understand how that could be. Well the  
16 reason why that is is simply that that -- that trunk  
17 group, that existing feature group C, intraLATA toll  
18 trunk group that is used between UBTA UBET and Provo --  
19 or Qwest's Provo tandem is that it's at or near  
20 capacity right now.

21                   MR. NELSON: I'm going to object to that.

22                   I'm sorry, Your Honor.

23                   ADMINISTRATIVE LAW JUDGE: Mm-hmm.

24                   MR. NELSON: Bresnan filed discovery on UBTA  
25 UBET asking for the current capacity of each trunk

1 group identified in response to Bresnan data request  
2 2.3, 2.4, and 2.5, which includes, with specific  
3 particularity, the trunk group that Mr. Meredith just  
4 testified as to.

5 And UBTA UBET's objected to this particular  
6 data request on the grounds that this request is not  
7 relevant and is not reasonably calculated to lead to  
8 the admission of relevant evidence. This happened, oh,  
9 just four days ago.

10 I think it is completely improper and  
11 objectionable to have UBTA UBET not providing this very  
12 information in advance of the hearing, and then on  
13 rebuttal, that Mr. Meredith now all of a sudden learned  
14 that we know the answer, and that we're going to be  
15 able to provide it. And I object to that, and I object  
16 to the testimony and ask that it be stricken.

17 ADMINISTRATIVE LAW JUDGE: Okay. Response?

18 MR. MECHAM: Well, you know, I guess the  
19 question is, what is the purpose of this hearing?  
20 With respect to -- and I'm sure Ms. Slawson also has a  
21 response, but as far as I'm concerned, Mr. Meredith is  
22 here. He's presented testimony. If Ms. Slawson would  
23 like to cross-examine him, if he wants to place that  
24 response before him, that's fine. But Mr. Meredith is  
25 here to present testimony as an expert witness and can

1 give a lot of information and a lot of help to this  
2 Commission in making a decision on this matter.

3 ADMINISTRATIVE LAW JUDGE: Ms. Slawson?

4 MS. SLAWSON: Your Honor, the reason we  
5 objected was on the basis of relevance. That trunk,  
6 that everybody has been referring to, that UBET has  
7 between Vernal and Provo, is for toll traffic only.  
8 It's not designed, it's not designated for local  
9 traffic. So it is irrelevant.

10 Having said that, it's also at or near  
11 capacity.

12 ADMINISTRATIVE LAW JUDGE: Mr. Ginsberg?

13 MR. GINSBERG: I certainly was a little  
14 surprised about the answer that somehow this  
15 information wasn't provided, because it appears  
16 extremely relevant whether that trunk group is at or  
17 near capacity, to address the entire question of what  
18 the costs are for each party.

19 So in order for this hearing to have any  
20 real meat, I believe they should be compelled to  
21 provide those answers.

22 And, you know, I'm not sure how Mr. Meredith  
23 even knows it. If they just provided it to him, but  
24 not to other parties.

25 So I think that that information is

1 completely relevant.

2 I understand that there might be an issue  
3 about whether you can use a toll trunk group for this  
4 local traffic, but whether or not that trunk group has  
5 any capacity on it is -- is completely relevant.

6 They're asserting that it's full and they  
7 have to put in a new trunk. I think they need to  
8 present evidence to show that.

9 MR. NELSON: And, Your Honor, I would just  
10 add to this that to the extent that UBTA UBET and URTA  
11 now want to put in evidence which they previously  
12 refused to provide in discovery, I think they should be  
13 obligated to provide a response to this entire  
14 discovery request. And do so tonight, if possible.

15 Because the whole point of doing discovery  
16 is so that evidence does not appear for the first time,  
17 by surprise, at the hearing. And the process that just  
18 has happened here is completely contrary to the entire  
19 intent of having discovery taking place in advance of  
20 the hearing.

21 And I think that for them to add a selective  
22 piece of information to this response in particular,  
23 while continuing apparently to object to the remainder  
24 of the discovery request, which would allow our expert  
25 witnesses to verify the veracity of wherever it is that

1 Mr. Meredith is testifying to, I think is improper.

2 ADMINISTRATIVE LAW JUDGE: Can I see that,  
3 please?

4 MR. NELSON: Absolutely.

5 ADMINISTRATIVE LAW JUDGE: So -- I mean, I  
6 understand what you're saying, but, I mean, he's -- I  
7 mean -- what Mr. Nelson is saying. I mean, you should  
8 have provided it before. Why all of this now?

9 MS. SLAWSON: Your Honor, our position is  
10 that that -- that the capacity on that trunk has  
11 nothing to do with this, because even if it were  
12 completely empty we wouldn't be able to use it. So it  
13 doesn't matter what the capacity is.

14 The only reason we're presenting it now is  
15 because we've heard several times throughout the course  
16 of this day that UBET has capacity on that trunk.  
17 We -- we don't have capacity on that trunk.

18 But even if we did capacity on that trunk,  
19 it wouldn't make a bit of different. We'd have to get  
20 new facilities from Qwest anyway.

21 ADMINISTRATIVE LAW JUDGE: I think -- I  
22 mean, I think they deserve a chance to at least --  
23 maybe if you want to reserve this portion of your  
24 testimony, and -- or file it in writing, an answer that  
25 his experts can deal with. But I think it's kind of



1 unfair that you bring it up now and they don't have a  
2 chance to really know that it's going to be occurring  
3 here.

4 Can you -- I mean, can you provide this --  
5 at least this portion here as far as trunk capacity by  
6 today, or maybe tomorrow morning?

7 MS. SLAWSON: Give me a moment, Your Honor.

8 (Whereupon, a discussion was  
9 held off the record.)

10 ADMINISTRATIVE LAW JUDGE: Let's go off the  
11 record.

12 (Whereupon, a break was taken.)

13 MS. SLAWSON: Okay, Your Honor.

14 ADMINISTRATIVE LAW JUDGE: Let's go back on  
15 the record.

16 MS. SLAWSON: Thank you for the momentary  
17 recess.

18 I have -- I just have a couple of questions.  
19 Maybe you can clarify for me. What you're asking UBET  
20 to provide precisely.

21 ADMINISTRATIVE LAW JUDGE: Here's my  
22 concern. From what I understand of Mr. Nelson's  
23 objection, is that Mr. Meredith's testifying --  
24 essentially answering the data request B, which you  
25 previously said was not relevant and not reasonably

1 calculated to lead to the admission of relevant  
2 evidence. I mean, obviously, I think from all of the  
3 parties here, it's relevant, and it's -- well, it's  
4 relevant.

5 And so I think what they want is --  
6 essentially it's kind of a fairness argument. You  
7 can't just bring it up now.

8 I think -- we spent until what,  
9 three o'clock today with Mr. Harris? A fair amount of  
10 his testimony, I think, had to deal with, you know,  
11 trunk capacity, and kind of some certain bases, I think  
12 assumptions that he made based on discovery that they  
13 had.

14 MS. SLAWSON: You're right, Your Honor. And  
15 those --

16 ADMINISTRATIVE LAW JUDGE: So I think  
17 what -- I mean --

18 What would you want, I guess, from them, in  
19 fairness?

20 Because I think ultimately, I mean, we  
21 have -- you know, the rules of evidence are kind of,  
22 you know, lax here, but, I mean, I think it does have  
23 to come in.

24 MS. SLAWSON: Your Honor, if I could respond  
25 for just a minute.

1 I don't think that Mr. Meredith answered the  
2 entire data request 3.1(B). He answered it with regard  
3 to one specific trunk.

4 To the extent -- I mean, to the extent he  
5 said it was at or near capacity, he answered it with  
6 respect to one trunk. There are other trunks that we  
7 just simply do not have that information broken out  
8 that way.

9 So -- but, having said that, I'd like to see  
10 what Mr. Nelson wants from us, because one of the  
11 options would be to provide the information that we  
12 can, that we may have, that you have determined is  
13 relevant, or to withdraw the testimony of Mr. Meredith.

14 ADMINISTRATIVE LAW JUDGE: Well, I mean, I  
15 think it's relevant. I don't know -- I think it's  
16 relevant. I think the Commission needs to hear it.  
17 But I think we need to give Mr. Nelson a chance to look  
18 at that, or his witnesses a chance to look at that.

19 Do you want to take a recess and then you  
20 talk about what you need?

21 MR. NELSON: I think, from a practical  
22 perspective, the -- our objective -- we have two  
23 different issues in play here. One is a lot of  
24 testimony and discussion about capacity of the trunk  
25 facility between Vernal and the Qwest tandem in Provo.

1 We also have testimony about the possibility of using  
2 capacity between the Vernal location and the UFN tandem  
3 in Salt Lake City.

4 Those are the two different interconnection  
5 paths -- indirect interconnection paths that I think  
6 Mr. Harris has identified as possibilities, depending  
7 on where Bresnan connects, and possibly both.

8 So I guess what we would ask for is the  
9 answers to A and B.

10 Let me see if we need C.

11 I think we just need the answers to A and B.

12 Okay. What we don't have is A and B for  
13 both of the two trunk groups at issue, and we don't  
14 have the answer to C as it relates to Salt Lake City.

15 Mr. Harris was able to obtain, through his  
16 contacts at Qwest, the response to C, and that's  
17 reflected in the Exhibit B2. And so we've got -- we've  
18 got the one for Provo, but we don't have the answer to  
19 C for the one in Salt Lake City. The UFN tandem.

20 And I think that we would ask for each of  
21 those data points, so that then Mr. Harris can evaluate  
22 not just the anecdotal discussion of at or near  
23 capacity, but with some degree of precision what  
24 exactly is the status of the two trunk groups at issue,  
25 and what exactly is their available capacity, if any.

1                   And we would have no objection to proceeding  
2                   on with the rest of Mr. Meredith's testimony, and  
3                   including whatever testimony he wants to offer about  
4                   what he views the capacity as, so long as that  
5                   information is provided during the course of the  
6                   hearing, and Mr. Harris is allowed an opportunity,  
7                   then, to make comment on the actual information in  
8                   addition to whatever oral testimony Mr. Meredith or  
9                   Ms. Wimer may provide in the meantime.

10                   ADMINISTRATIVE LAW JUDGE: Okay. So you  
11                   understand what they want?

12                   MS. SLAWSON: I believe so.

13                   ADMINISTRATIVE LAW JUDGE: Ms. Slawson?

14                   MS. SLAWSON: You want the current capacity  
15                   for the trunk group from UBTA UBET to the Salt Lake  
16                   tandem, the UFN tandem, you want the current capacity  
17                   for the UTBA UBET trunk group from Vernal to the Provo  
18                   tandem, and you want the billing percentage between  
19                   UBET -- the billing percentage listed in the NECA 4  
20                   tariff for the Salt Lake City tandem. And Vernal.

21                   MR. NELSON: And additionally, the answer to  
22                   A as to both. Which is the average two-way minutes.

23                   MS. SLAWSON: Okay. Can I have just a  
24                   moment, Your Honor?

25                   ADMINISTRATIVE LAW JUDGE: Sure.

1 (Whereupon, a discussion was  
2 held off the record.)

3 ADMINISTRATIVE LAW JUDGE: We'll go off the  
4 record.

5 (Whereupon, a break was taken.)

6 MS. SLAWSON: Your Honor, I've confirmed  
7 with the client that I can get that information. I  
8 have preliminary numbers that have not been verified.  
9 I'm asking that the client get that to me in the  
10 morning in a spreadsheet. And if I get that tonight,  
11 I'll send it to you.

12 MR. NELSON: That would be acceptable.

13 ADMINISTRATIVE LAW JUDGE: Then let's  
14 reserve that portion of your testimony for later.

15 THE WITNESS: Okay.

16 Okay. That portion of the testimony we're  
17 going to reserve later I'm not going to talk about, but  
18 the issue that I wanted to emphasize is that on  
19 scenario one, Bresnan makes an assumption that no new  
20 facilities will be required. In a data response to the  
21 staff, UBTA UBET specifically stated it would need new  
22 facilities. So that particular request and response  
23 was -- is fully consistent with what I've just said.

24 The other item with regard to scenario one  
25 is this issue of transit charges.

1                   Now, UBTA UBET has the responsibility, or  
2                   the obligation, or duty, to allow Bresnan to connect to  
3                   its essential facilities. And essential facilities are  
4                   clearly laid out in the regulations or the rules of the  
5                   Commission.

6                   And the problem with the scenario one on  
7                   indirect interconnection, it that Bresnan is assuming  
8                   that the hand-off point from -- for traffic from UBET  
9                   to Bresnan is on one side of the tandem. In this  
10                  particular scenario, I believe it's exclusively the  
11                  Provo tandem, and traffic from Bresnan to UBET  
12                  customers. That hand-off point is in a different  
13                  location. It's on the other side of the Provo tandem.  
14                  And that creates the scenario that they're purporting  
15                  that both carriers would have transit charges, from  
16                  Qwest, in order to make this interconnection work.

17                  However, if Bresnan is connecting with the  
18                  essential facilities of UBTA UBET, those essential  
19                  facilities exist in the network of UBTA UBET. And  
20                  we've talked about Whiskey Springs as the point of  
21                  terminus, a point of termination for UBET's facilities,  
22                  and where Qwest's facilities and network actually  
23                  begins.

24                  Under this interconnection scenario, number  
25                  one, is Bresnan should -- and I don't agree that

1 indirect interconnection at the tandem should exist in  
2 any event. But if it -- if -- looking at scenario one,  
3 the Bresnan expenses should take all of the transit  
4 fees, both originating and terminating, through the  
5 Qwest tandem, because if the interconnection point is  
6 indeed at the essential facilities of UBTA UBET, that's  
7 going to be in the network, the physical footprint of  
8 UBTA UBET, or its facilities in that footprint. And we  
9 know that Whiskey Springs is actually at the boundary.  
10 And that's actually not disputed.

11 So that's my -- those are my observations  
12 for scenario one.

13 In scenario two, we have some of the same  
14 observations that we have -- that I had before. This  
15 is an indirect interconnection based in minute-of-use  
16 measurements. And I have those same observations I had  
17 for scenario two -- for scenario one applies for  
18 scenario two.

19 In dealing with another item with regards to  
20 the EAS charge on page five of five of this exhibit,  
21 Bresnan attempts to outline -- or identifies the  
22 various host remote umbilical trunks that go from  
23 one -- from Vernal or UBTA's Altamont remote to Vernal,  
24 and it's -- all of the remotes -- all of the remote  
25 offices.



1                   And in making this particular calculation, I  
2                   observed that Bresnan relied on the assumption that the  
3                   assumed minute-of-use per DS1 trunk per month is  
4                   250,000 minutes over each one of these trunks, which I  
5                   believe is a -- is far exceeds the -- the amount of  
6                   traffic that would go to, for example, Flat Top, or  
7                   Neola, or some of these other -- these other remotes.  
8                   And so I think, by inflating the denominator of  
9                   their -- of their ratio, they achieve a very small  
10                  number. And I believe -- and I would just point that  
11                  out to Your Honor, when you're looking at this  
12                  particular item, to take that into consideration.

13                  MR. MECHAM: Anything further, Mr. Meredith?

14                  THE WITNESS: No.

15                  MR. MECHAM: Then he is prepared for  
16                  cross-examination.

17                  ADMINISTRATIVE LAW JUDGE: Okay. Let's  
18                  start with Bresnan.

19                  MR. NELSON: Your Honor, before we get  
20                  started on cross examination, I guess I have an  
21                  objection to make again.

22                  If you look at Exhibit B4, you'll see that,  
23                  once again, in question 2.2 on page two, Bresnan asked  
24                  UBTA UBET in 2.2(B) to identify the current capacity of  
25                  the trunk group between each UBTA UBET remote switch

1 and the Vernal host switch. And I guess that just  
2 troubles me again, because Mr. Meredith, in his  
3 conclusion, the conclusion of his testimony, just  
4 offered testimony challenging the assumption that was  
5 included in the -- Mr. Harris's testimony about the  
6 usage and capacity of those trunk groups, and again,  
7 injected into the record evidence which UBTA UBET  
8 refused to provide in discovery.

9 And so I guess I would object to that  
10 testimony, except and unless UBTA UBET agrees to, as we  
11 did before, provide the response that was previously  
12 requested in discovery.

13 MR. MECHAM: Your Honor, I would ask that he  
14 identify -- Mr. Nelson identify exactly what it was  
15 that Mr. Meredith said that he's objecting to.

16 MR. NELSON: Mr. Meredith testified that the  
17 minutes of use on the trunk groups between the Vernal  
18 host and the various remote switches was, I believe  
19 something along the lines of far less than  
20 250,000 minutes of use as Mr. Harris had put into his  
21 analysis.

22 He then called into question the veracity of  
23 the analysis based on his testimony that the assumption  
24 used was false.

25 In Exhibit B4, 2.2(B), Bresnan specifically

1 asked for the capacity of those trunk groups.

2 In addition to that, back at the old  
3 question we had before, in 3.1(A), if you look at that  
4 3.1(A), we asked for the average monthly two-way  
5 minutes of use carried for the past 12 months for each  
6 of the trunk groups identified in response to Bresnan  
7 data request 2.2. That's the request that asks for  
8 these trunk groups between the host and the remote.  
9 That's the testimony that Mr. Meredith just gave, which  
10 previously in this hearing UBTA UBET had declared to be  
11 irrelevant and refused to provide.

12 So, again, I understand Your Honor's  
13 interest in making the record complete. I guess all I  
14 would ask is, just as we did the last time, if  
15 Mr. Meredith is permitted to testify what the capacity  
16 is and what the average minutes use is between those  
17 trunk groups, since those are questions we specifically  
18 asked for in discovery, I think we're entitled to get  
19 an answer to our questions.

20 ADMINISTRATIVE LAW JUDGE: Can you also  
21 provide an answer to that?

22 MR. MECHAM: Ms. Slawson can answer that  
23 part of the question, but it seems to me -- I -- I  
24 don't know that Mr. Meredith has specific information.  
25 I think what he was doing was calling into question, or

1 pointing out to Your Honor the fact that these are  
2 assumptions, plug numbers that were put in that come  
3 out with a plug result. They're not reflective of what  
4 actually is happening.

5 I don't have access to that information, and  
6 I don't think Mr. Meredith has either.

7 ADMINISTRATIVE LAW JUDGE: Do you have  
8 access to that, Ms. Slawson.

9 MS. SLAWSON: Your Honor, it's my  
10 understanding that we do not have access to that, as --  
11 as it's requested, so.

12 ADMINISTRATIVE LAW JUDGE: Okay. I'm going  
13 to overrule the objection.

14 MR. NELSON: Okay.

15 ADMINISTRATIVE LAW JUDGE: I mean, if  
16 there's -- my feeling is it was kind of like what  
17 Mr. Mecham was saying. I think that they don't have  
18 the information, they don't have any information. But  
19 can you -- can you get what you need? I mean, does  
20 it --

21 MR. NELSON: Well, the short answer --

22 ADMINISTRATIVE LAW JUDGE: Will the answers  
23 come when -- when you provide that information  
24 tomorrow?

25 MR. NELSON: Well, no. But that's fine.

1 You've ruled.

2 ADMINISTRATIVE LAW JUDGE: Thanks.

3 MR. NELSON: We'll go on.

4 CROSS EXAMINATION

5 BY MR. NELSON:

6 Q. Let me start with this question then,  
7 Mr. Meredith.

8 If the information is not available to say  
9 what the actual minutes of use are on these trunk  
10 groups between Vernal and these various remote sites,  
11 isn't it true that you have no basis, in fact or  
12 knowledge, to challenge the assumption that -- made by  
13 Mr. Harris in his exhibit?

14 A. No, it's not true.

15 Q. Okay. So what information do you have about  
16 the capacity or the current minutes of use on those  
17 current trunk groups?

18 A. Well, I looked at the various exchanges that  
19 are listed on the page five of five. And I know --  
20 without specific details, but I know that there are  
21 different types of -- different customer accounts in  
22 these smaller areas. Like the Flat Top, and then Neola  
23 that I mentioned.

24 And to assume that we have 250,000 minutes  
25 of use per trunk -- per DS1 trunk per month to those

1 locations, as I mentioned before in my summary, seems a  
2 little unreasonable, and I mentioned it -- I brought  
3 that to the attention of His Honor.

4 Q. Okay. What assumption would you make then  
5 that you would find reasonable? Give us a number.

6 A. Well, I would have to -- I would have to  
7 look at that a little bit further. I don't know. I  
8 don't have that off the top of my head.

9 Q. So as you sit here today, you have no better  
10 information than what Mr. Harris provided. Is that  
11 your testimony?

12 A. I doubt --

13 This 250,000 minutes of use per month on a  
14 DS1 trunk, my understanding is full capacity of a DS1.  
15 And I highly suspect that the routes to these smaller  
16 areas are at 250,000 minutes a month per DS1.

17 Q. I understand that. But you have no better  
18 information to give us as to what the actual numbers  
19 are?

20 A. I have no information, that's correct.

21 Q. Okay.

22 Let me stay on that point then.

23 If your testimony, Mr. Meredith, is that  
24 these trunks are at or near the 250,000 minutes per  
25 use, which would be capacity, would it be true, then,

1 that on an incremental basis, there's no cost to adding  
2 capacity onto those trunk groups because they're  
3 nowhere near exhaust? Is that correct?

4 A. No, that's not correct.

5 The costs to and from Vernal and the other  
6 points are -- those costs are distributed to minutes of  
7 use. And we have that -- we have that information, or  
8 we've had that information in other proceedings, not  
9 this one, that established what those costs were?

10 Q. Do you understand the difference between a  
11 distributed or allocated cost and an incremental cost,  
12 sir?

13 A. Yes, I do.

14 Q. Okay. I didn't ask you about a distributed  
15 cost. I asked you on an incremental basis if those  
16 trunk groups are at nowhere near capacity, as you just  
17 indicated, isn't it true that there is no incremental  
18 cost to adding additional minutes of use on those trunk  
19 groups?

20 A. Okay. I need a little more information,  
21 because incremental actually defines a unit of  
22 increment, and so I need to know what the unit of  
23 increment is. If we deal with a unit of increment on  
24 one minute, that's a far different story than if we're  
25 dealing with a unit of minute over the total capacity

1 or the total demand for that particular circuit.

2 And as you well know, that comes into play  
3 very big in dealing with the economics of  
4 telecommunications.

5 Q. Is there -- it's your testimony about how  
6 nowhere near exhaust these trunk groups are. Is there  
7 any increment you can imagine that would be  
8 reasonable --

9 Given the number of customers you've  
10 testified exist in these remote areas, is there any  
11 increment you can imagine that would then cause those  
12 trunk groups to get -- to lose or become exhausted?

13 A. First of all, my testimony was no -- did not  
14 state nowhere near. That was a point of clarification.

15 My testimony was, I suspect -- I have  
16 suspicion that we're at 250,000 minutes or full  
17 capacity for these remotes that I was dealing -- that I  
18 was describing.

19 With regards to the appropriate increment,  
20 this is not a cost hearing, but my view would be that,  
21 in looking at the regulation -- the rules of the -- of  
22 the Commission, and the State statute, that there is  
23 not guidance as to what the increment is in dealing  
24 with the establishment of interconnection for essential  
25 facilities.



1                   That being the case, to answer the question  
2 pointedly, the total demand capacity -- the total use  
3 of that circuit would be an appropriate increment to  
4 look at; and increasing of that demand, or increasing  
5 that increment would, indeed, increase the cost of  
6 service.

7                   Q.   And it increased the costs by requiring a  
8 new trunk group?

9                   How does it increase the cost? Let me just  
10 ask you more generically.

11                   A.   Well, if the increment is the total demand,  
12 and let's say you're at 60 percent. Just as an  
13 example. 60 percent capacity.

14                   If your increment's total demand, if you  
15 were to add another increment to that, you would be at,  
16 theoretically, 120 percent, which would add additional  
17 costs.

18                   Q.   So if the population of these areas doubled?  
19 Is that the increment you're suggesting would be the  
20 benchmark where you would then add additional cost?

21                   A.   The -- I am not proposing a cost evaluation  
22 or establishing the cost standard for looking at  
23 essential facilities here.

24                   My -- my example, I believe, was correct, to  
25 your question, what increment would be appropriate,

1 total demand would be appropriate. I have no  
2 observation about if population doubled.

3 Q. Okay.

4 Let me back up a little bit. I kind of got  
5 carried away a little bit with that last little piece.

6 Your testimony indicates that it is jointly  
7 sponsored by UBTA UBET and URTA. At least that's what  
8 it says on the cover sheet. Is that a fair  
9 characterization?

10 A. Yes.

11 Q. So the -- I assume you're being paid as a  
12 consultant in this case. Is that fair?

13 A. Yes.

14 Q. So the fees you're charging are being paid  
15 by both of the two entities?

16 A. Yes. But it's not doubled the fees. It's  
17 the allocation of time is split between the two  
18 entities.

19 Q. Fair enough. I'll let you sort out the  
20 details of that with the folks who are doing that.

21 And what is the relationship between  
22 yourself and Ms. Wimer, who's going to testify later?

23 A. Well, Ms. Wimer and myself, we're  
24 colleagues. We work for a company called John  
25 Staurulakis, Incorporated, who has extensive experience

1 in rural telecommunications issues. The firm was  
2 established in 1963.

3 And we have experience with issues like  
4 this. Not exactly like this, because this is the only  
5 Essential Facilities Agreement, quote unquote, that  
6 we've dealt with, but we have experience with  
7 interconnection and policy for hundreds of local rural  
8 telephone companies.

9 Q. And you support the testimony, I assume,  
10 that Ms. Wimer has submitted in this proceeding?

11 A. Well, I'm not -- I'm not adopting her  
12 testimony. She's going to be here to answer questions  
13 on her own behalf.

14 Q. Is there anything about Ms. Wimer's  
15 testimony with which you disagree?

16 A. No. Not that I believe so.

17 Q. Okay.

18 A. No.

19 MR. MECHAM: But I will object if you're  
20 goes to cross-examine him based on Ms. Wimer's  
21 testimony.

22 MR. NELSON: I intend to cross-examine him  
23 only on his testimony, sir.

24 MR. MECHAM: Thank you.

25 MR. NELSON: We'll leave Ms. Wimer for

1 later.

2 Q. (BY MS. SLAWSON) On that note, let's take a  
3 look at your testimony.

4 I'm going to refer you to page five, at  
5 lines 126 to 129.

6 Do you see that, sir?

7 A. Yes.

8 Q. All right.

9 Your statement is that you recommend that  
10 the Commission require that any CLEC interconnect  
11 within a rural ILEC within the State of Utah  
12 interconnect at a technically feasible point within the  
13 same or overlapping service territories or as otherwise  
14 agreed to by the parties.

15 Do you see that?

16 A. Yes.

17 Q. Okay.

18 Are you familiar with the Utah Commission  
19 rules regarding interconnection?

20 A. I believe so, yes. If you refer to a  
21 specific one, maybe I can refresh my memory.

22 Q. Okay.

23 In Rule 746-348-3, do you recall the section  
24 that discusses terms and conditions of facilities  
25 interconnection?

1 A. Yes.

2 Q. And in that discussion, there's a reference  
3 in point A, which is entitled Point of Interconnection.  
4 And that rule suggests -- oh, do you have it in front  
5 of you?

6 A. Yes, I do.

7 Q. Oh, how wonderful. Take a quick look at  
8 Rule A there. Just to familiarize yourself with that.

9 A. Yes.

10 Q. Okay.

11 Would you agree with me that that rule  
12 requires incumbent local exchange company to allow  
13 other public telecommunication service providers to  
14 interconnect its network at any technically feasible  
15 point?

16 A. Yes. This rule says that the incumbent  
17 local exchange carrier shall allow any other public  
18 telecommunications service provider to interconnect its  
19 network at any technically feasible point, to provide  
20 transmission and routing of public telecommunications  
21 services.

22 Q. Okay. Now the phrase that you have in your  
23 testimony, "within the same or overlapping service  
24 territories," would you agree with me that that  
25 particular wording doesn't appear in the rule anywhere?

1           A.    No, it appears in the statute specifically.  
2    54-8(B)-2.2, entitled Interconnection.

3           Q.    Okay.

4                    Now, the statute says that you have to  
5    interconnect with the essential -- with another  
6    telecommunications corporation that provides public  
7    telecommunication service in the same or overlapping  
8    service territory.  Correct?

9           A.    Where are you referring to?  I'm sorry.

10          Q.    58-8(B)-2.21(A)(i).  Right?

11          A.    Yes.

12          Q.    It says that they're required to  
13    interconnect with another telecommunications  
14    corporation that provides public telecommunication  
15    service in the same adjacent or overlapping service  
16    territory.  Correct?

17          A.    Yes.

18          Q.    It doesn't say in the statute that the point  
19    of interconnection must be within the same adjacent or  
20    overlapping service territory, does it?

21          A.    No, but if you look at 1(B)(I), the --  
22    there's a statement that says, All telecommunications  
23    corporations providing public telecommunications  
24    service in the affected area, that's the area we were  
25    just talking about, the overlapping areas you

1 described, shall have the right to interconnect with  
2 the essential facilities and to purchase the essential  
3 services of all other certificate holders operating in  
4 the same area.

5 Q. I guess all I'm saying is that whenever the  
6 phrase "same adjacent or overlapping service territory"  
7 appears in the statute, would you agree with me that  
8 that phrase is modifying the service territories of the  
9 two telecommunications carriers at issue, and is not  
10 modifying any requirement relating to the specific  
11 point of interconnection?

12 A. No. Because the antecedent in B(I), the  
13 affected area refers to that -- that language you just  
14 referred to.

15 Q. Okay. So your testimony is that it is the  
16 law in the State of Utah, that interconnection must  
17 happen, and the point of interconnection must happen  
18 within the same adjacent or overlapping service  
19 territory?

20 A. This is my plain English reading of the law.  
21 You'll refer to the law in brief, I'm sure.

22 But what it says, the affected area shall  
23 have the right to interconnect with the essential  
24 facilities and to purchase the essential services, the  
25 only affected area that the -- that the legislature had

1       been dealing with was that overlapping same or adjacent  
2       service territory you were referring to.

3             Q.    Okay.

4                    Do you agree that, as a general principal,  
5       the Commission should establish interconnection  
6       requirements that are efficient?

7             A.    General principal, yes.

8             Q.    Do you agree that the Commission should  
9       establish interconnection requirements that are the  
10      least cost?

11            A.    To whom?

12                    I don't know. I don't know if I can -- as  
13      it's written, I don't know. As you state that, I don't  
14      know if I can agree to it, yes or no.

15            Q.    Well, do you think it's a -- do you think  
16      it's good policy -- putting aside the law, is it good  
17      policy for the Commission to establish interconnection  
18      procedures that are the least cost to both  
19      interconnecting parties?

20            A.    Generally, yes.

21            Q.    Okay.

22                    Do you understand, and I assume you agree  
23      with the notion that interconnection should happen at a  
24      point that is technically feasible.

25            A.    Yes. Interconnection has to happen at a



1 point that's technically feasible. The question is  
2 whether it's within -- or with the essential facilities  
3 of the carrier or not, for Utah.

4 In the Federal arena, that's the  
5 difference -- a different space. A different  
6 determination and a different analysis.

7 Q. Okay.

8 I want you to make an assumption with me.

9 I want you to assume that both UBTA UBET and  
10 Bresnan program their switches to route traffic to each  
11 other and to direct traffic over the trunk group which  
12 currently exists between Vernal and the Salt Lake City  
13 tandem.

14 A. Okay.

15 Q. Do you have that assumption in mind?

16 A. They're both routing through the Salt Lake  
17 City tandem that I think was referred to as a UFN  
18 tandem.

19 Q. Correct.

20 A. Yes.

21 Q. Okay.

22 And as part of this assumption, please  
23 assume that Bresnan has secured facilities to  
24 interconnect with the UFN tandem.

25 Do you have that in mind?

1 A. Yes.

2 Q. Okay.

3 Once those translations are made, directing  
4 calls over that trunk group, would I be correct that if  
5 a UBTA UBET customer called a Bresnan customer in  
6 Vernal, that that call would complete?

7 A. Yes. I believe so.

8 Q. So there is nothing about the facilities in  
9 question, that is the trunk between Vernal and the UFN  
10 tandem in Salt Lake City, that would somehow stop that  
11 call from being connected. Correct?

12 A. I believe so, yes.

13 Q. So in that case, wouldn't you agree with me  
14 that it would be technically feasible to interconnect  
15 for the purpose of exchanging traffic along that  
16 facility that I just described?

17 A. Yes, but I don't agree with the assumption  
18 that you can physically interconnect anywhere. We  
19 could -- we could have had this same hypothesis or same  
20 hypothetical in Poland, or we could have the same  
21 hypothetical of connecting in San Juan Puerto Rico. I  
22 mean, the call would have gone through if those  
23 translations have been made.

24 Q. Okay. All I'm saying is the call would go  
25 through, and the only thing that has to change is that

1 the two switches need to make the appropriate  
2 translations. And your answer was the call would go  
3 through. Right?

4 A. Assuming -- there's quite a few other  
5 assumptions that are there.

6 You have the translations are made. I don't  
7 know exactly what -- if you're dealing with local  
8 traffic, I assume. That's what I'm assuming.

9 Q. Mm-hmm.

10 A. If there is capacity for that particular  
11 trunk group, then the call would go through.

12 Q. Let's ask about the capacity question. Do  
13 you have any information or understanding as to the  
14 capacity of the current trunk group between Vernal and  
15 the UFN tandem in Salt Lake City?

16 A. No, I do not.

17 Q. Okay.

18 If it were the case that the Commission  
19 decided that interconnection would be accomplished  
20 through the UFN tandem in Salt Lake City, for example.  
21 Okay? And the calls were completed as you just  
22 testified would happen, what harm would befall UBTA  
23 UBET in that scenario?

24 A. So we'd have -- we have a situation,  
25 assuming the Commission adopts an interconnection -- an

1 indirect interconnection and uses the UFN, not the  
2 Provo tandem, but the UFN tandem, what costs would --  
3 would -- would UBTA UBET incur?

4 Is that the question? Or as far as harm?

5 Is it costs that you were dealing with?

6 Q. I actually said harm because I meant to  
7 extend it beyond costs, but let's start with costs.

8 What costs would UBTA UBET incur in that  
9 situation?

10 A. My view is that Bresnan would be responsible  
11 to pay for the transiting fee, both originating and  
12 terminating at that location.

13 This is not Bresnan's position. Bresnan's  
14 position is that UBTA UBET should have to go out of its  
15 network and pay a fee in order to give -- in order to  
16 get interconnection to Bresnan.

17 So there's that cost, depending upon which  
18 way you want to go.

19 There's also another cost, in dealing with  
20 trunking all the way from -- from Vernal to -- to any  
21 particular tandem, and when you put the local traffic  
22 on them.

23 This is somewhat arcane, but it's -- it is  
24 directly on point.

25 Interstate cost studies are developed using

1 trunk -- trunk -- trunk counts. And if you put local  
2 trunks on -- or local traffic on a trunk, you're going  
3 to dilute the percentage of interstate and intrastate  
4 percentages that will have an affect in the cost study.  
5 I can't quantify that, because I don't have the  
6 information in front of me.

7 Q. So if -- let me just make sure I understand  
8 that part.

9 If local traffic is carried over that trunk  
10 group, the Federal universal service support to which  
11 UBTA UBET would otherwise be entitled might diminish?

12 A. No, not Federal universal service support.  
13 It's actually the cost submission for interstate and --  
14 specifically for interstate on the Federal side,  
15 interstate access rates. That would be -- they're NECA  
16 settlements would go down. They would actually realize  
17 a loss, or a decline in support.

18 Q. Settlements.

19 Okay. Putting aside the notion of the fact  
20 that there are transiting charges in this arrangement,  
21 paid by someone, and setting aside your testimony I  
22 understand on the NECA settlements as to access  
23 charges, would there be any other costs, out-of-pocket  
24 dollars that UBTA UBET would be required to pay?

25 A. Well, to the extent that UBTA UBET needs to

1 establish a new trunk group for this traffic, be it on  
2 a feature group D, as in David, trunk group, depending  
3 upon that relationship with UFN, there may be another  
4 trunk group that is needed for the local traffic.

5 Q. And the trunk group there would be needed  
6 because of exhaust or in order to preserve the trunk  
7 group the way it is for the NECA settlement purposes?

8 A. No. I -- it may be that UFN or any tandem  
9 owner has specific requirements on what type of traffic  
10 comes over it on certain trunk groups. And since this  
11 is now, quote, local traffic, at a tandem, which is a  
12 new item for UBTA UBET, they may not have the  
13 arrangements necessary to actually have that local  
14 traffic go over that -- that tandem, and they might  
15 need to have -- to establish new arrangements.

16 Q. Do you know who owns the UFN tandem?

17 A. I do not know specifically who owns it. I  
18 know it's a collection of companies.

19 Q. A collection of what kind of companies?

20 A. I do not know all of the companies, but I  
21 know that a number of the URTA company -- URTA members  
22 are owners of the UFN.

23 Q. Do you know specifically whether or not UBTA  
24 UBET is a partial owner of the UFN tandem?

25 A. I do not know specifically that.

1 Q. If UBTA UBET were a partial owner of the UFN  
2 tandem, would you agree that that was part of the UBTA  
3 UBET network?

4 A. No. It's completely different. Different  
5 entity. It has nothing to do with the UBTA UBET  
6 network -- telephone network that is -- that is dealt  
7 with for local telecommunications services.

8 Q. You're saying the fact -- if it were the  
9 case that UBTA UBET were one of those members who owned  
10 a piece of that tandem, you're saying that because it's  
11 owned through a separate corporate affiliate, they  
12 would not be a part of the UBTA UBET network in your  
13 opinion?

14 A. I don't believe -- if UBTA UBET has owner --  
15 has an ownership interest in UFN, it's not an affiliate  
16 of UBTA UBET, for one.

17 And two, it's not established that UBTA UBET  
18 has controlling interest of UFN. And so it's a  
19 completely separate entity, just like it were a  
20 third-party.

21 Q. Okay.

22 Is it possible to find out whether or not  
23 UBTA UBET owns a piece of the UFN tandem?

24 A. Depends on what your resources are. I  
25 mean --

1 Q. Let me back up. Is it possible for you to  
2 ask your client, while we're sitting here at this  
3 hearing sometime, whether or not UBTA UBET owns a part  
4 of the UFN tandem?

5 A. That UBTA UBET is an owner of UFN?

6 Q. Yes.

7 A. Yeah, I'm sure I could ask my client that,  
8 and I'm sure I could get an answer.

9 Q. Are you willing to do so?

10 A. Yes.

11 Q. Okay.

12 Your testimony covers a second issue that I  
13 want to discuss with you.

14 Let me start by calling to your attention  
15 page three, lines 72 through 73. I guess it actually  
16 starts a little before that. The line 70 through 73.

17 A. Yes.

18 This is on page three, lines 70 through 73,  
19 and then continues on. It's also on page six.

20 Q. Right. And let me just start with the  
21 language on page three.

22 Page three you suggest it's your position  
23 that the Commission should default to the ILEC's  
24 proposed essential facilities agreement when there  
25 isn't any compelling private or public interest



1 changing the ILEC's proposed agreement.

2 A. Yes.

3 Q. All right.

4 Then, on page six, you expand on that a  
5 little bit, as you had already suggested.

6 Call your attention to the top of page six.

7 I'm sorry. I lied. In the bottom of  
8 page -- well, line 148 to 142. Let's get to the lines.

9 148 to 152, you testified that the basis or  
10 the reason why you suggest that you ought to default to  
11 the ILEC agreement, if I understand your testimony  
12 correctly, is that there may be issues that are  
13 important to UBTA UBET but are of no concern to the  
14 interconnecting CLEC. Is that a fair summary of your  
15 concern here?

16 A. Yes. That's what I say on line 151. These  
17 may be of no concern to the interconnecting CLEC, but  
18 vital to the ILEC.

19 Q. Okay. Let me just sort of ask how you would  
20 suggest that the Commission apply this recommendation.

21 You understand that Bresnan has submitted a  
22 red-line of the UBTA UBET proposed agreement which has  
23 been discussed as part of Exhibit B2?

24 A. Yes.

25 Q. And you understand further that, through the

1 course of -- well, you understand that in that red-line  
2 Bresnan has expressed certain positions with respect to  
3 language that it believes would be appropriate for  
4 adoption.

5 A. Yes, I believe that Bresnan has -- has  
6 red-lined -- has provided its red-line to the Essential  
7 Facilities Agreement. Yes. I think the answer is yes  
8 to the question.

9 Q. Okay. And presumably, when Mr. Coleman gets  
10 on the stand we may learn what the Division's positions  
11 may be as relates to the various and sundry language  
12 disputes that are carried forward in the red-line in  
13 Exhibit B2. Is that fair?

14 A. I don't know what Mr. Coleman's going to be  
15 testifying to. He didn't mention that he was going to  
16 refer to red-line in his testimony, because it was  
17 pre-filed far -- far in advance of the red-line --  
18 receiving the red-line.

19 Q. All right.

20 A. But I can suppose that you're going to ask  
21 him questions about the red-line.

22 Q. I'd suppose lots of people will, frankly.  
23 But let's -- let me just get to the brunt of  
24 this.

25 Is it possible, at the end of this

1 proceeding, there might be some language that's in the  
2 red-line that everybody agrees is fine?

3 A. Well, there is some language that the  
4 parties agree that's fine. It's the black -- it's  
5 marked as black in the language right now.

6 Q. This isn't a trick question.

7 A. All right. I'm sorry. I --

8 Q. I'm just trying to say --

9 A. It is only 4:15. I should be able to get  
10 this.

11 Q. If everyone agrees that the language is  
12 fine, would it be your recommendation that the  
13 Commission adopt that language?

14 A. Yes.

15 Q. Okay.

16 A. If the parties -- I don't know if the  
17 Division really -- I mean, the Division obviously has  
18 an interest to make sure that everything is going well,  
19 but I don't think they would object if the parties  
20 agreed to a particular provision. I don't think they  
21 would say, Oh, you have to change it if both parties --

22 So I think it's really between Bresnan and  
23 UBTA UBET.

24 Q. Okay.

25 Would you agree that if there is language

1 that is disputed, by one of the people sitting here in  
2 this room, that if the Commission considering that  
3 dispute concluded that the language proposed by UBTA  
4 UBET were in the public interest, that the Commission  
5 should adopt that language?

6 A. Yes, I would -- I would commend the Division  
7 for that, and agree with them that that was sound  
8 decision-making.

9 Q. If the Commission concluded that language  
10 that the Division proposed, different from what either  
11 UBTA UBET or Bresnan might suggest, were in the public  
12 interest, would you agree that the Commission should  
13 adopt that language?

14 A. No. No. I believe the language that UBTA  
15 UBET has provided, I've read it thoroughly, should be,  
16 in most all cases, adopted over the red-line that  
17 Bresnan has adopted.

18 Q. Okay. Maybe I'm not being clear here. And  
19 let me try this again.

20 I'm saying your testimony suggests that you  
21 should adopt the UBTA UBET position unless there's a  
22 compelling interest. Do you recall that discussion?

23 A. Yes.

24 Q. Okay. I'm trying to get a feel for what  
25 this compelling interest might look like.

1 A. Oh, okay.

2 Q. So what I'm asking you is, if the Commission  
3 decides it is in the public interest to adopt language  
4 that the Division has proposed, would you agree that it  
5 is the Commission's obligation to follow the public's  
6 interest and adopt the Division's language?

7 A. Now, okay. Now we're talking about the  
8 Commission adopting the language. And I was  
9 understanding that it was the Division that was  
10 accepting the language.

11 The Commission can do what the Commission  
12 does. And I will not have quarrels, in this forum, on  
13 what the Commission does.

14 Q. If the Commission decides that the language  
15 proposed by Bresnan is in the public interest, would  
16 you agree with me that the Commission should adopt that  
17 language?

18 A. If the Commission decides something, I'm not  
19 going to argue with the Commission. I mean, His Honor  
20 can decide that, and that's his decision.

21 Q. Okay.

22 So would it be fair to say that where  
23 language is in dispute, what you're suggesting that the  
24 Commission do is decide which of the different  
25 alternatives are in the public interest, and select

1 that language?

2 A. No. My -- my -- and I hope I was clear in  
3 the testimony.

4 When rural LECS adopt an agreement, an  
5 Essential Facilities Agreement, it's available to other  
6 carriers, as I mentioned on page six of my testimony.  
7 And so there are -- there are -- there can be  
8 provisions, and I -- and I've outlined a few of those  
9 in my introduction, that I've heard today, that  
10 apparently have no compelling interest for Bresnan,  
11 because they're not -- certainly not doing some of the  
12 things that they've -- that they've -- and that was the  
13 justification for not having the language in the  
14 agreement.

15 That may be of no concern for the  
16 internet -- for Bresnan, but it is vital to the ILEC to  
17 have those provisions in the agreement, in order to  
18 protect the next person that comes in and adopts the  
19 agreement.

20 Q. Okay. And I --

21 A. And so I don't know if I have a public  
22 interest standard here in my testimony. So I -- I  
23 think we're maybe just one step removed from the  
24 testimony in dealing with public interest, but, again.

25 Q. Let me ask you this question then.

1                   Is it your position that, as a matter of  
2 policy, if the Commission decides it is in the public  
3 interest to adopt the language proposed by Bresnan, but  
4 that public interest isn't compelling, to use your  
5 word, that the Commission should ignore what's in the  
6 public interest, as they've decided, and instead do  
7 something different?

8                   A. No. I believe the Commission, when it  
9 determines the public interest, will take these matters  
10 into consideration. And recognize that Bresnan has no  
11 private concern for that language, but that UBTA UBET  
12 would like to have the language in it. That the  
13 Commission, in that context, for this agreement, I'm  
14 certain the Commission will take that into -- under  
15 advisement and will make a determination.

16                   When that determination is made, you're  
17 telling me, am I going to object and jump up and down  
18 against the Commission? No, I'm not.

19                   Q. Okay. And I --

20                   A. I'm not going to -- in this forum, I'm not  
21 going to object to the Commission's decision,  
22 obviously.

23                   Q. Let me just ask, and maybe I'm just being  
24 dense here, Mr. Meredith. When I read your testimony,  
25 I took it to mean that the Commission shouldn't adopt

1       Bresnan's language unless there is a compelling public  
2       interest, but they can go ahead and adopt UBTA UBET's  
3       language if there's just ordinary public interest.

4               And what I'm trying to see is if you really  
5       intend your position to be that for Bresnan to prevail  
6       on any of these disputes, that the standard the  
7       Commission should apply is a compelling public  
8       interest, as compared to the standard that the  
9       Commission applies in every other context, which is  
10      simply what's in the public interest.

11              Is that -- have you intended to create a new  
12      standard for the Commission?

13              A.   No.  No.  I mean, when I -- when I used  
14      the -- on line -- on page three in my introduction, I  
15      described the second determination starting on line 71,  
16      is for the Commission to default to the ILEC's proposed  
17      Essential Facilities Agreement when there isn't any  
18      compelling public or private interest challenging the  
19      ILEC's proposed agreement.  That -- the compelling  
20      could be used convincing.  I could have used a  
21      different word in that sense.

22              I'm not trying to establish a -- a, quote,  
23      compelling public interest standard.

24              Q.   Okay.  Fair enough.  I think I'm  
25      understanding what you're trying to do.



1 A. Okay.

2 Q. Let's talk about the two examples you gave  
3 in your introduction.

4 And we look at first and foremost, on  
5 Exhibit B2, on page one of the General Terms and  
6 Conditions, I'd like to call your attention to  
7 Section 1.3.

8 A. General Terms and Conditions 1.3.

9 By the way, I believe I gave four items. I  
10 don't know if you were going to just refer to two, but  
11 I'll go where you want me to go.

12 Q. I actually took down three. Maybe you  
13 should quickly review what the four were.

14 I have nomadic issues, issues with wholesale  
15 services, and issues with being in and out of balance.

16 Was there a fourth issue?

17 A. Yeah.

18 Q. What was the fourth?

19 A. Clearly I intended to identify a fourth  
20 issue as an example. And that is the establishment of  
21 industry standards, generically.

22 It needs to be nailed down a little more  
23 specifically. That's why, in the agreement that UBTA  
24 UBET's proposing is that we're referring to specific  
25 standards and procedures that UBET is following.

1                   In Bresnan's proposal, they -- the statement  
2           is industry standards without any identification of  
3           what those standards are. It could be widely  
4           interpreted by another party, not Bresnan, but by  
5           another party adopting this that those -- whatever  
6           those standards are.

7           Q.    Okay.

8           A.    We need more clarity.

9           Q.    Appreciate that. I missed that one in your  
10          list.

11          A.    I may have not covered it. Thank you for  
12          reminding me.

13          Q.    The nice thing about this process is if  
14          you've got something to say, you'll be sure you'll get  
15          a chance to say it somewhere.

16                   Let's talk then, just going chronologically  
17          through the agreement.

18                   On page one. Section 1.3. Is this the  
19          language that's being stricken -- stricken? That's not  
20          a word. -- that is proposed to be stricken, in red,  
21          that you're referring to when you talk about the issue  
22          with wholesale services?

23          A.    Oh. Yes. In -- in -- it's at least one of  
24          the areas.

25                   The 1.3 says the provision of wholesale

1 services including service to ISP's by Bresnan, and  
2 Bresnan will not transmit any traffic to UBET that is  
3 generated by a third-party.

4 Q. Okay.

5 In your mind, what is the definition of the  
6 proposed language here of -- what is a wholesale  
7 service?

8 A. A wholesale -- a wholesale service would be  
9 like a wholesale interconnection service that Bresnan  
10 would be doing or offering on behalf of another  
11 provider.

12 Q. The term isn't wholesale interconnection  
13 service, it's wholesale service.

14 A. That's an example.

15 Q. Well, let me -- is switched access, in your  
16 mind, a wholesale service?

17 A. Switched access service, yes, it is a  
18 wholesale service.

19 Q. So this language that says that the  
20 provision of wholesale service by Bresnan to any entity  
21 is strictly prohibited would prohibit Bresnan from  
22 providing switched access, wouldn't it?

23 A. Yes, it would.

24 Q. Would you agree with me that direct trunk  
25 transports is a wholesale service?

1           A.    It doesn't have to be.  It can also be done  
2   for large -- large retail users.

3           Q.    Sure, but could it be?  Of wholesale  
4   service?

5           A.    Depends on the context, yes.

6           Q.    So is the intent of this language to  
7   prohibit Bresnan from offering direct trunk transport  
8   on a wholesale basis?

9           A.    Yes.  This agreement is for local traffic  
10   from Bresnan end user customers to UBTA UBET customers.

11          Q.    Independent of this agreement, let's say  
12   Bresnan wants to provide a trunk, somewhere in the  
13   State of Utah, over its facilities.  Between person A  
14   and person B, unrelated to anything having to do with  
15   Vernal.

16          A.    Mm-hmm.

17          Q.    Why would it be in the Commission's, or  
18   anyone's interest, to say Bresnan is prohibited from  
19   providing such a wholesale service to a customer?

20          A.    Well, Exhibit 1 of the agreement has the  
21   exchanges covered by the agreement, and it specifically  
22   states Vernal is the only area that we're dealing with.

23          Q.    So let's say that Bresnan wants to provide a  
24   wholesale trunk on its facilities in Vernal, and that  
25   wholesale trunk doesn't connect one way or the other to

1 UBTA UBET. Do you have that example in mind?

2 A. Yes. It's the independent of UBTA UBET.

3 Q. Why should Bresnan be barred, legally, from  
4 providing a wholesale service to a customer?

5 A. Because, although Bresnan might have good  
6 faith, if another carrier comes in and provides a  
7 wholesale service of that nature, that provider could,  
8 in fact, arbitrage quite heavily through that  
9 Interconnection Agreement, because they have traffic on  
10 their network that eventually could leak back into UBTA  
11 UBET's network.

12 Q. Okay. You understand, sir, that this  
13 sentence is not limited to wholesale services that  
14 result in termination under the terms of this  
15 agreement?

16 A. Yes.

17 Q. You say that this sentence applies to  
18 wholesale services generally? And ubiquitously. Do  
19 you see that?

20 A. Yes.

21 Q. So why, if in a wholesale services being  
22 provided by anyone, that doesn't flow through an  
23 interconnection with UBTA UBET, should UBTA UBET care  
24 at all?

25 A. Because of leakage. Because the provision,

1 the safeguard that traffic will not flow onto the  
2 network is not 100 percent.

3 And another carrier, not alleging bad faith  
4 to Bresnan, but another carrier could take this and do  
5 wholesale service and have leakage.

6 Q. So if a customer, say another third-party  
7 carrier, wants to buy wholesale trunking in Vernal, if  
8 this agreement were in place, and they have otherwise  
9 two options; one is UBTA UBET and one is Bresnan. That  
10 person looking for that wholesale service would only be  
11 able to acquire that service from UBTA UBET under your  
12 language. Correct?

13 A. Yes.

14 Q. Is that competitively neutral in your mind?

15 A. For the protections of this agreement, it  
16 is.

17 Q. Why is it that Bresnan shouldn't be just as  
18 concerned with leakage as UBTA UBET is with traffic  
19 going the other direction?

20 Why shouldn't, if we're going to bar  
21 wholesale services because of leakage, no one be  
22 allowed to provide them?

23 A. The -- well, the wholesaling services have  
24 to be provided by UBTA UBET, because they provide  
25 switched access service, for example. And they --

1 they -- there is a history, as far as I know, and I  
2 know there's probably bad faith on both parts, but I  
3 know that there are cases where CLECs have attempted to  
4 arbitrage interconnection agreements, or Essential  
5 Facilities Agreements if they exist, in other  
6 jurisdictions.

7 And that is a serious or a very, very  
8 important concern for the ILEC.

9 Q. Okay. Let's look at the next sentence as  
10 proposed.

11 "Neither party shall transmit, over the  
12 interconnection arrangements provided for in this  
13 agreement, any traffic that is generated by a  
14 third-party that is not an end user customer of that  
15 party."

16 Do you see that sentence, sir?

17 A. Yes.

18 Q. Would that not prohibit the issue you're  
19 talking about, without imposing on Bresnan the  
20 requirement, that it be barred from entering certain  
21 segments of the market, that is the wholesale provision  
22 of transport services, for example?

23 A. The proposed language "neither party shall  
24 transmit over the interconnection arrangements provided  
25 for in this agreement any traffic that is generated by

1 a third-party that is not an end user customer of that  
2 party," the strike out on -- that is also in that  
3 section -- in that -- that's a follow-on via the  
4 facilities and other arrangements contemplated by this  
5 agreement if such traffic is transmitted, all traffic  
6 transmitted by Bresnan shall be billed at current rates  
7 until such time as traffic is removed from the  
8 interconnection arrangement established under this  
9 agreement.

10 The language that is proposed strikes --  
11 strikes the actual remedy or enforcement mechanism to  
12 make sure that it doesn't -- that traffic from  
13 third-parties doesn't occur. And so it's important,  
14 not only to have the actual statement, but also to have  
15 the remedy or the enforcement provision that was struck  
16 by Bresnan.

17 Q. Okay. Well, I think you just moved onto a  
18 separate question, but let me ask this.

19 A. Okay.

20 Q. Putting aside the remedy for default, or the  
21 remedy for non-compliance, if Bresnan complied with the  
22 language included, "neither party shall transmit,"  
23 et cetera, if Bresnan complied with that language,  
24 would you agree that the problem that you are concerned  
25 about would not be a problem? That it would be a



1 non-issue?

2 A. Possibly, in this -- in this section. But I  
3 do recall, although I can't locate it mentally right  
4 now, is there are other wholesale provisions in the  
5 agreement. So we're dealing with this particular one.  
6 That might have -- if -- if there is a remedy, in  
7 making sure that you don't -- that there's no  
8 transmission of interconnection issues of traffic  
9 through the arrangement, that that covers the, in large  
10 part, the interconnection issue, or the issue of that  
11 language in 1.3.

12 Q. You say "in large part." Is there some  
13 issue that is encompassed in the absolute prohibition  
14 of absolute services that are not fully and completely  
15 covered?

16 A. I can't think of any right now, but I do  
17 know -- I do recall, though I can't -- if I take some  
18 time I could find possibly other wholesale sections,  
19 and you might have them. You might be going through  
20 them next, but.

21 Q. I actually wasn't sure there was any more,  
22 so if another wholesale language --

23 I think we've covered this one. What's the  
24 other one you have in mind when you were testifying?

25 A. As I recall, there were other wholesale

1 services.

2 I can find that, probably, off-line, if you  
3 wanted to, or I could go through page by page right now  
4 and try and find it.

5 MR. MECHAM: Your Honor, it might be faster  
6 if some of this was directed at Ms. Wimer.

7 I understand that Mr. Meredith has given  
8 general testimony, and it's fair game, but to go  
9 provision by provision, which is, I think, where you  
10 might be going with Ms. Wimer, it might be much longer  
11 than it needs to be.

12 MR. NELSON: And I -- I certainly will avail  
13 myself of that. My only issue was the fact that this  
14 witness offered testimony on these specific sections,  
15 and I intended to discuss those specific sections. But  
16 I'll --

17 For purposes of moving this along, I'll --

18 Q. (BY MR. NELSON) Well, tell you what. Would  
19 it be possible for you to ask Ms. Wimer if there are  
20 other sections related to wholesale services, that  
21 she'd be prepared to identify those when she gets on  
22 the stand and we can have this discussion with her?

23 A. You want me to ask Ms. Wimer if she'll  
24 identify those while she's up here?

25 Q. Yes.

1 A. Okay.

2 Q. That's fine.

3 A. Let me just note another one that comes to  
4 mind.

5 In a whereas clause on page one, we have  
6 Bresnan is a voice-over-internet protocol voice  
7 provider, and that has been struck.

8 And since Bresnan is, I believe, intending  
9 to use VoIP protocol, or be a VoIP provider and offer  
10 public telecommunications services in the State of Utah  
11 using voice-over-the-internet protocol, that also is a  
12 protection in dealing with wholesale arrangements.  
13 Because if you're a VoIP provider, I don't believe you  
14 have those direct trunks that you're talking about.

15 Q. Okay. Well now you've mentioned one, so now  
16 I have to ask you about it.

17 A. Sure.

18 Q. I agreed to get -- I tried to let you punt.  
19 You failed.

20 Voice-over-internet protocol. Where in the  
21 Utah statute is that term defined?

22 A. I don't believe it is.

23 Q. Where in this agreement does the definition  
24 of voice-over-internet protocol exist?

25 A. Well, if doesn't, it maybe should.

1 Q. Take a look at the definitions and tell me  
2 if you see it.

3 A. I'm going to the glossary right now.

4 I don't believe this is on glossary  
5 attachment.

6 There is a definition on page four of  
7 Internet Protocol Enabled Traffic. And it identifies  
8 IP-enabled traffic means any internet protocol-enabled,  
9 realtime multi-direction voice call, including but not  
10 limited to services that mimics traditional telephone,  
11 and includes voice-over-internet protocol traffic.

12 Q. But there's no definition of  
13 voice-over-internet protocol traffic.

14 Would you agree with me --

15 Let me just ask this. Would you agree with  
16 me that there's lots of different kinds --

17 A. No, let me answer.

18 Oh, go ahead.

19 Q. Would you believe that there's lots of  
20 different kinds of voice-over-internet protocol  
21 providers in the terms that lots of different companies  
22 use that technology in lots of different ways?

23 A. There are a variety of voice-over-internet  
24 protocol groupings, yes.

25 Q. And the significance of this whereas clause

1 where you include this voice-over-internet protocol is  
2 the notion that if a company coming in wants to opt  
3 into this agreement, and they're not a  
4 voice-over-internet protocol provider, that they be  
5 precluded from opting in?

6 A. That's correct.

7 If they don't meet the conditions of the  
8 interconnection agreement, then they wouldn't be able  
9 to operate.

10 Q. So it wouldn't be enough for you, having now  
11 gone through this entire set of brain damage, if a  
12 carrier was simply a telecommunications corporation  
13 authorized to provide public telecommunications  
14 services in the State of Utah.

15 Now let's say for some insane reason a  
16 second carrier wanted to do this in the fine exchange  
17 of Vernal. That they wouldn't be able to opt into this  
18 agreement because, in that instance, for example, they  
19 weren't a voice-over-internet protocol, and they'd have  
20 to go through this process all over again. Is that  
21 what your testimony would be?

22 A. They wouldn't be going through this process  
23 in my mind.

24 The reason why we're here is because we have  
25 voice-over-internet protocol on our brains. There's a

1 question in the Federal arena as to whether or not  
2 voice-over-internet protocol is a telecommunications  
3 treatment that warrants Federal treatment. If another  
4 carrier comes in and they're not VoIP, they would be  
5 most likely -- let's assume that that they are a  
6 telecommunications carrier providing telecommunications  
7 services under the Federal law. We would not be  
8 dealing with an Essential Services Agreement, we would  
9 be dealing with an Interconnection Agreement.

10 Q. You don't think a simple carrier has a  
11 choice under State law in Utah to ignore the Federal  
12 law?

13 Say I don't want to come under Federal law.  
14 I want to come under State law. They don't have that  
15 option?

16 A. My personal view? Is that when the  
17 Telecommunications Act of 1997 was established, the  
18 provisions for interconnection and arbitration of  
19 interconnection agreements was very clear, and it  
20 essentially trumps, or fills in the voids that might  
21 exist in any state proceeding, or state regulation or  
22 rule.

23 Q. Let's talk about the other issue that you  
24 mentioned just real quick then.

25 Look at Section 2.2 of the Interconnection

1 Attachment that I think gets to the same sort of point  
2 which relates to nomadic traffic.

3 A. Yes. Page two, Interconnection Attachment.

4 Q. I take it your objection here in large part  
5 relates to the sentence that was stricken by Bresnan in  
6 testimony that Mr. Harris gave this morning.

7 A. Yes.

8 Q. In this instance, the first sentence of 2.2  
9 says that, No one will terminate any traffic where the  
10 end user customer is able to move its service location  
11 nomadic traffic. Do you see that?

12 A. Correct.

13 Q. So if and to the extent Bresnan decided to  
14 do a nomadic arrangement, would you agree that this  
15 language, on its face, would bar Bresnan from  
16 including, in the traffic exchanged under this  
17 agreement, anything associated with that nomadic  
18 service?

19 A. The first -- the first sentence talks about  
20 nomadic traffic, and then it says, Such traffic is not  
21 permitted in this agreement. So yes. The -- that  
22 traffic is not permitted in the agreement.

23 But again, for leakage and bad faith  
24 behavior of other possible carriers entering the Vernal  
25 exchange, that -- the warrant, or the affirmative

1 statement that each party is providing service to end  
2 user customers as a specific location, very reasonable,  
3 and actually appropriate.

4 Q. Okay.

5 Now in this case you'll also agree with me  
6 that on the page three on the next page, if leakage  
7 happens, or if something were to transition, would you  
8 agree with me that the penalty provision is still there  
9 in force, which says that if that were to occur, that  
10 it would be subject to switched access service charges  
11 pursuant to the highest applicable switched access  
12 service rates of the terminating party?

13 A. Yes. That that language is still in the  
14 red-line.

15 Q. And would that be an adequate remedy, in  
16 your mind, for any leakage that occurred?

17 A. That is the proposed remedy for any leakage  
18 that occurs.

19 Q. Is it adequate?

20 A. I hope so.

21 Q. So if there's a prohibition, and if there's  
22 a remedy, what matter is it to UBTA UBET if Bresnan  
23 decides to do a nomadic service and terminate traffic  
24 under that service through some other totally  
25 completely unrelated interconnection process with a



1 third-party not present here today? Why does UBTA  
2 UBET get hurt at all?

3 A. Umm, just --

4 The end user customer and end user  
5 location --

6 Because the warrant is that you're not --  
7 that Bresnan is not going to provide to end user  
8 customers in UBET's local calling area, by tariff or  
9 contract, and introduced the four operating parameters,  
10 require the service be provided to the end user  
11 customers to only be from a fixed location. And the  
12 user location, and the customers are identified in the  
13 glossary. This would be appropriate for customers that  
14 are in the operating area of the Vernal exchange.

15 Q. I understand that.

16 A. So we do not really want to have any  
17 customers, I believe -- and this is UBET's position,  
18 that any customers that are operating within this  
19 exchange shouldn't be moving and having -- having  
20 nomadic service for their -- for their  
21 telecommunications services offered by Bresnan.

22 Q. I understand you don't like it, but what I'm  
23 trying to figure out is why it harms you.

24 Here's the question.

25 A. Mm-hmm.

1 Q. Bresnan wants to institute a nomadic  
2 service, independent from its digital voice that it's  
3 providing that we're talking about.

4 A. Mm-hmm.

5 Q. Bresnan wants to provide this nomadic  
6 service. Bresnan signs up a customer in Vernal who  
7 wants this nomadic service because the customer likes  
8 to travel all over the place and wants to use it in  
9 Paris, France.

10 Do you have that in mind?

11 A. Yes.

12 Q. In that instance, Bresnan executes a  
13 separate interconnection agreement to terminate all  
14 traffic from that customer through someone else, not  
15 UBTA UBET and not in this agreement. Do you have that  
16 in mind?

17 A. Yes.

18 Q. Why does that harm, in any way, UBTA UBET  
19 for Bresnan to take advantage of that business  
20 opportunity if it wanted to?

21 A. So you're essentially offering FX type  
22 service to Europe, and bringing the traffic back using  
23 the -- using the UBTA UBET port number?

24 Q. Actually I was contemplating an over-the-top  
25 voice-over-internet protocol, is specifically what I

1 had in mind. Sort of a Vonnage-type service. Are you  
2 familiar with that?

3 A. Yes.

4 Q. Bresnan wants to offer a Vonnage-type  
5 service. It does a separate agreement with some other  
6 party, not UBTA UBET, and it terminates calls according  
7 to that other agreement. No traffic is done here. And  
8 if something leaks, there's a penalty provision in  
9 place.

10 A. Mm-hmm.

11 Q. I'm trying to figure out what's the harm to  
12 UBTA UBET from Bresnan taking advantage of that  
13 business opportunity.

14 A. Well, we don't want to -- if we're going to  
15 have nomadic --

16 I mean, the harm is this. That Bresnan  
17 doesn't want to have to stay up late at night and check  
18 and see if nomadic traffic is leaking. An affirmative  
19 declaration by a good party is good faith, and Bresnan  
20 will accept -- or UBTA UBET will accept it as good  
21 faith, and then have essentially trust but verified  
22 provision that in the event leakage does occur, then  
23 penalties will occur.

24 It's not in Bresnan -- UBTA UBET's interest  
25 to check every day if nomadic traffic is coming or not.

1 So an affirmative declaration that we're not going to  
2 have nomadic traffic, perfectly acceptable and within  
3 the interest of UBTA UBET.

4 Q. Well I understand that, but you're  
5 actually -- your language suggests that only Bresnan  
6 isn't going to do that.

7 The language that you're proposing would  
8 suggest that UBTA UBET, if it wanted to, could offer  
9 this service under its facilities, or itself. Is that  
10 right?

11 A. Yes. That's how it's written, but there is  
12 a red-line there as well.

13 Q. Oh sure. That's -- well that's Bresnan's  
14 suggestion, but.

15 A. That's right.

16 Q. You understand that if there's an  
17 over-the-top internet service, that the termination is  
18 done via an IXC, not via local interconnection trunks?

19 A. Doesn't have to be. I do not know that.

20 Q. All right.

21 I think we'll take up your offer and take up  
22 the rest of the details with Ms. Wimer.

23 Thank you for your testimony.

24 MR. NELSON: I have no further questions of  
25 this witness.

1 ADMINISTRATIVE LAW JUDGE: Any questions  
2 from --

3 MR. GINSBERG: I do.

4 MS. SLAWSON: From UBET?

5 ADMINISTRATIVE LAW JUDGE: I'm sorry.

6 MR. MECHAM: Not from me, but.

7 MR. GINSBERG: I have questions. I have a  
8 few.

9 ADMINISTRATIVE LAW JUDGE: Go ahead.

10 CROSS EXAMINATION

11 BY MR. GINSBERG:

12 Q. Mr. Meredith, let me make sure I understand  
13 this. Your position is that -- that the Commission  
14 should adopt, as a general policy, or apply, as -- I  
15 guess as you'd like it for all independent telephone  
16 companies interconnecting with a CLEC, that the  
17 interconnection must occur within the same adjacent  
18 overlapping service territory. Which means that it  
19 would have to actually physically interconnect with,  
20 this example, the facilities of Uinta Basin at Whiskey  
21 Springs.

22 A. Well, I don't believe that there's a  
23 technically feasible point to interconnect at Whiskey  
24 Springs, but yes.

25 The answer is, the requirement or duty to

1 interconnect, under this provision, is to interconnect  
2 with essential facilities of the ILEC. And those  
3 essential facilities are within the network footprint  
4 of the ILEC.

5 Q. Did you disagree that the definition of an  
6 indirect interconnection, that the interconnection is  
7 with a third-party?

8 A. No, I do not disagree that an indirect  
9 interconnection, meaning an interconnection between two  
10 carriers using a third-party, as an intermediary in  
11 effect.

12 Q. So is it your position that, at least under  
13 Utah law, as you've discussed it with Mr. Nelson,  
14 interconnections, as has been defined here, is  
15 prohibited?

16 A. Indirect interconnection generally yes, with  
17 one exception. If Bresnan, for example, were to assume  
18 the financial responsibility of the Qwest facilities  
19 that it was using to interconnect at Whiskey Springs or  
20 any other point in the -- inside the network, using  
21 essentially leased facilities, that could be  
22 essentially considered an indirect interconnection,  
23 because Bresnan is using another carrier to get to UBTA  
24 UBET. But if they're financially accepting all of the  
25 responsibility of that -- those costs on somebody

1 else's network, then essential -- interconnection of  
2 the essential facilities appears to be reasonable  
3 there.

4 Q. Now, you would agree that interconnection  
5 agreements that have been approved in this state,  
6 including interconnection agreements that independent  
7 phone companies have entered into, allow for indirect  
8 interconnections through a third-party.

9 A. I am aware of that, and I'm also aware that  
10 I believe, in every instance, that is under Federal law  
11 and regulation.

12 Q. So is Utah law contrary to Federal law?

13 A. Utah law is different than Federal law.

14 Q. So all of these interconnection agreements  
15 that have been entered into violate Utah law?

16 A. No. They're -- they're fully consistent  
17 with Federal law, as -- as they've been adopted.

18 Q. But inconsistent with State law? Under  
19 your --

20 A. I don't know if a decision has been  
21 addressed -- I don't know if anyone has addressed  
22 whether there is an inconsistency between the Federal  
23 and State law, because you look to the Federal law when  
24 you're dealing with 251, 252 Interconnection  
25 Agreements. You don't look at State law.

1                   No reason to look at essential facilities  
2           except for in this case, when the traffic that is being  
3           proposed to be exchanged does not fall under the  
4           telecommunications service under the Federal law. It's  
5           a different -- a different type of traffic.

6           Q.    You agreed to some general principals. You  
7           know, that interconnection should be efficient, and  
8           economic. I think Mr. Nelson asked you.

9           A.    Generally, yes.

10          Q.    You agree with the general principals that  
11          it should follow industry norms?

12          A.    Insofar as the industry norms have been  
13          established.

14                   A lot of times -- and this is an interesting  
15          question, and let me -- let me elaborate.

16                   The -- a lot of the industry standards that  
17          we have right now are -- are predicated on Federal law  
18          and regulation. So when we look at -- when we look at  
19          the industry standards, you have to, I think,  
20          understand that those -- a lot of those standards are  
21          based upon the Federal construct, not upon the State  
22          construct. So industry norms, to the extent that they  
23          are consistent with the State -- state requirements,  
24          yes.

25          Q.    But at least for the area that you've talked



1 about, the industry norm that indirect interconnections  
2 are permissible under a third -- through a third-party,  
3 should not be followed here.

4 A. Indirect interconnections through a  
5 third-party, to the extent that the -- that that  
6 requesting carrier is actually financially responsible  
7 for all of the -- all of the costs associated with a  
8 third-party's network, and interconnects with UBTA  
9 UBET, that is a -- as I mentioned before, that's a --  
10 that would be a permissible or a reasonable way to  
11 allow for, quote, indirect interconnection.

12 Q. Now this interconnection that occurs at  
13 Whiskey Springs, is this the trunk group that we're  
14 talking about, of what the unknown capacity is that  
15 goes to Whiskey Springs, and then there's a  
16 interconnection with Qwest at that facility? Is that  
17 right? Is that what you're saying?

18 A. The -- yes, the route that we're talking  
19 about is from the Vernal exchange switch to the Provo  
20 tandem. And there is a meet point at Whiskey Springs.

21 And that meet point is really just -- it's  
22 not -- there's not a cabinet, there's not a building at  
23 Whiskey Springs. It's actually a buried facility, and  
24 it's just a fiber connection between -- between --  
25 between -- or a physical interconnection. I'm not sure

1 if it's fiber or not, but a physical connection between  
2 UBTA UBET and Qwest.

3 Q. So does -- does something happen at that  
4 point where Uinta Basin now pays transiting costs in  
5 order to get their message to the Provo tandem from  
6 Whiskey Springs?

7 A. If someone were to request a traffic between  
8 Vernal and --

9 Q. Does Uinta Basin pay a transiting cost right  
10 now?

11 A. The interexchange carrier that's carrying --  
12 well, it's actually Qwest, but it's -- all of this  
13 traffic on feature group C is IntraLATA toll traffic.  
14 And -- and so the interexchange carrier that is -- that  
15 is using that facility actually pays part Qwest for its  
16 facilities, and in part UBTA UBET for its facilities,  
17 over that run from Vernal to the Provo tandem.

18 Q. Who owns the facility?

19 A. Up to whiskey -- from Vernal to Whiskey  
20 Springs? UBTA UBET owns it. From Whiskey Springs to  
21 the Provo tandem, Qwest owns it.

22 Q. Now let's -- what about this -- the other  
23 tandem? The U --

24 A. The Salt Lake tandem?

25 Q. Yes.

1           A.    I don't have any information on that.  I  
2           can't describe the same relationship, because I don't  
3           have that information before me.

4           Q.    So you're -- you would think it would be  
5           okay to use the Provo tandem if Bresnan paid this --  
6           whatever -- what was it, \$2 and -- this \$3 -- these  
7           charges that range anywhere from \$34 to \$139 a month,  
8           that if they would pay both sides of that charge it  
9           would be okay?

10          A.    My recommendation is that you have direct  
11          connection at the Bresnan head-end in Vernal.  And the  
12          reason why that is is we've heard Bresnan allege that  
13          it can't translate essentially time division  
14          multiplexed, or TDM traffic to IP traffic.  It's two  
15          different type of technologies.  It can't -- it can't  
16          make that translation at the Vernal head-end and  
17          deliver traffic to Grand Junction.

18                 However, there is technology that can do  
19          that, and actually, for a very reasonable amount of  
20          money, a box, or a piece of equipment can be placed  
21          there that can then use the same facilities that  
22          they're running over to Grand Junction.

23          Q.    Is there something under Utah law that  
24          you've been -- that you referred to that would prohibit  
25          the example that I came up with?

1 A. No.

2 Q. So you just think it's better economics?  
3 To do it through the direct connection?

4 A. Remember about the question of capacity from  
5 Vernal to Whiskey Springs? That capacity -- that trunk  
6 may very well be at or near capacity. And we'll find  
7 that out in detail, I believe, either tonight or  
8 tomorrow.

9 If that traffic is at capacity, if that  
10 trunk is at capacity, then a new trunk would need to be  
11 provisioned and that would be additional cost to UBTA  
12 UBET that wouldn't need to be incurred if we had  
13 interconnection in the -- at the point of  
14 interconnection, or at the -- at the head-end in  
15 Vernal.

16 Q. Another area that Mr. Harris said should act  
17 as a guide approving these interconnection agreements  
18 was that there should be a continuity of service. Did  
19 you recall him talking about that?

20 A. Yes.

21 Q. Do you have any problem with that being  
22 there? The general guideline?

23 A. No. And I also don't have any problem with  
24 the language that UBTA UBET has proposed on that  
25 either.

1 I believe their continuity of service is  
2 there.

3 The alleged hair-trigger is not in this  
4 particular agreement. There are provisions and  
5 protections to make sure that there's adequate due  
6 process for disputes, particularly in billing, for  
7 example.

8 Q. Hair-trigger meaning that automatically, and  
9 quickly --

10 A. Yes.

11 Q. -- terminated because of some infraction?

12 A. Correct.

13 Q. That doesn't exist?

14 A. I don't believe it does.

15 Q. The other one was that -- you had some  
16 discussion with Mr. Nelson on this, that it should be  
17 balanced and reciprocal. You don't necessarily agree  
18 with that one, do you?

19 A. Which? I'm sorry, there should be --

20 Q. His third category was that the  
21 Interconnection Agreement should be balanced and  
22 reciprocal.

23 A. To a certain extent, that's a good policy,  
24 but it does not override or veto my considerations on  
25 accepting Bresnan -- or UBTA UBET's language to the

1 extent that it protects UBTA UBET in future possible  
2 opting agreements.

3 Q. Now, your concern about other carriers  
4 opting into this agreement isn't a -- is it a Uinta  
5 Basin alone issue, or is it --

6 A. No.

7 Q. An issue somehow -- in other words, if this  
8 agreement is adopted, it only applies to Uinta Basin,  
9 does it not?

10 A. It only applies to the Vernal exchange.

11 Q. Right.

12 A. However, this is a case of first impression.  
13 And there are significant implications going forward  
14 for everyone in the URTA, the rural telecom association  
15 because, as things move along, other essential  
16 facilities might exist, or might emerge. And as a  
17 result, the precedent set in this case will have an  
18 influence in those cases.

19 Q. But from a -- from your concern about  
20 someone opting into it as a legal right --

21 A. Right.

22 Q. -- only exists within Uinta Basin.

23 A. Only exists within the Vernal exchange.

24 Q. Right.

25 So it means some other carrier would have to

1 choose to provide CLEC services there?

2 A. Yes.

3 Q. Is that it?

4 A. Yes.

5 Q. Now, if there was another carrier who wanted  
6 to provide services in the Vernal exchange, would they  
7 also have to get a certificate?

8 A. Yes.

9 Q. So would the opportunity to raise any  
10 concerns about specific issues to the type of carrier  
11 that is coming into the Vernal exchange be raised in  
12 the certificate proceeding?

13 A. Yes. But I don't believe that is sufficient  
14 safeguard, because all of those objections would likely  
15 be overruled on a hypothetical. Because we're dealing  
16 with -- with a carrier that's new to the exchange, and  
17 there's no information as to the behavior of that  
18 carrier.

19 Q. I think you had some of these -- you  
20 testified in their certificate proceeding, if I -- I  
21 vaguely remember?

22 A. Yes, I did. Yes. On behalf of URTA.

23 Q. And I remember that some of these issues,  
24 with respect to this phantom traffic, and leakage, and  
25 other things like that, came up in the certificate

1 proceeding. Did it not?

2 A. Yes, I believe they did.

3 Our -- our interests in that proceeding was  
4 to make sure the public interest was firm -- firmly  
5 established, and my testimony dealt with -- with  
6 that -- that aspect.

7 And the Commission went a different way. I  
8 would have gone a different way in that proceeding.

9 Q. Bresnan also indicated that they weren't  
10 going to engage in the activities that you were  
11 concerned with in respect to some of these issues that  
12 you discussed with Mr. Nelson about what they would be  
13 conducting.

14 A. Yes. The adage by Ronald Reagan, trust but  
15 verify, applies in this instance. You -- you trust  
16 them, but you also have provisions and protections to  
17 safeguard those.

18 Q. But those safeguards could have been  
19 included in the certificate. In fact, they made those  
20 assurances to you at that point, did they not?

21 A. They made assurances, yes, and some of those  
22 assurances are codified or established in the -- in the  
23 proposed Interconnection Agreement that UBTA UBET has  
24 developed.

25 Q. Are all of the independent phone companies a



1 member of URTA, or are some not now?

2 A. No. Not all are. I know that Citizens is  
3 not a member of URTA.

4 Q. All of the ones that you're aware of, do  
5 they all have interconnection agreements that they've  
6 entered into with telecommunications providers, at  
7 least on a wireless basis?

8 A. I would be surprised if not --

9 I believe so, yes. I don't have any  
10 specific information in front of me telling me that  
11 there are wireless interconnection agreements for  
12 all -- for all the members, but I would -- I would  
13 suppose there would be.

14 Q. Could you review the ones that Uinta Basin  
15 has entered into?

16 A. No. Just to the extent of briefly glancing  
17 at the reciprocal compensation rate that is used. The  
18 1.2 cent rate.

19 Q. For which agreement?

20 A. I believe it was the Western Wireless, but  
21 I'd have to check. Subject to check on that.

22 MR. GINSBERG: Thank you.

23 ADMINISTRATIVE LAW JUDGE: Any other  
24 questions for Mr. Meredith?

25 MR. MECHAM: I have a very brief redirect.

1 ADMINISTRATIVE LAW JUDGE: Okay.

2 REDIRECT EXAMINATION

3 BY MR. MECHAM:

4 Q. Let me just make sure, with respect to this  
5 agreement, it isn't just the opt-in agreement that  
6 you're worried about, but you feel if a provision is  
7 accepted here by the Commission, the next time we're  
8 here, with another company that has an exchange with  
9 more than 5,000 access lines, it's going to be much  
10 easier to decide in that way.

11 It sets the precedent.

12 A. Yeah. As I said to Mr. Ginsberg, yes, I  
13 believe there are precedence that will be set in this  
14 proceeding.

15 Q. And in 1995, when the State Act passed, at  
16 that point wasn't all the focus on Qwest, or US West at  
17 the time?

18 A. That was my understanding. I was not here  
19 in 1995, but I have good reliable information that that  
20 is true.

21 Q. So do you believe there was any discussion  
22 about interconnecting with U.S. West outside of its  
23 service territory?

24 A. No. No. I -- no, there's no -- I have no  
25 information on that. That that's -- that there was

1 even -- it was even dreamed that there would be  
2 interconnection outside of the ILEC's territory,  
3 because the statute specifically states that is  
4 essential facilities of the ILEC.

5 MR. MECHAM: Thank you. That's it.

6 ADMINISTRATIVE LAW JUDGE: Okay.

7 Thank you, Mr. Meredith.

8 THE WITNESS: Thank you.

9 ADMINISTRATIVE LAW JUDGE: Let's go off the  
10 record real quick.

11 (Whereupon, a discussion was  
12 held off the record.)

13 ADMINISTRATIVE LAW JUDGE: Ms. Wimer, if you  
14 would raise your right hand for me.

15 VALERIE WIMER,  
16 having first been duly sworn, was examined and testified  
17 as follows:

18 DIRECT EXAMINATION

19 BY MS. SLAWSON:

20 Q. Ms. Wimer, will you state your name and  
21 business address for the record?

22 A. Valerie Wimer, and I'm at -- I keep on  
23 forgetting our address. 5279 Walker Drive, Green Belt,  
24 Maryland.

25 Q. And who are you appearing for here this

1 afternoon?

2 A. For UBTA UBET.

3 MS. SLAWSON: Your Honor, may I approach the  
4 court reporter and have this --

5 ADMINISTRATIVE LAW JUDGE: You may.

6 (Whereupon, Exhibit No. UU-1  
7 was marked for identification.)

8 MS. SLAWSON: Do you need a copy of  
9 Ms. Wimer's testimony?

10 ADMINISTRATIVE LAW JUDGE: I have it.

11 Q. (BY MS. SLAWSON) Ms. Wimer, did you  
12 previously provide pre-filed written testimony in this  
13 matter?

14 A. Yes, I did.

15 Q. And would you take a look at what has been  
16 marked UU Exhibit 1?

17 A. Yes.

18 Q. Does that appear to be a true and correct  
19 copy of the testimony that you previously provided?

20 A. Yes, it is.

21 Q. And I believe it's 44 pages plus an exhibit.  
22 Is that correct?

23 A. Correct.

24 Q. And the Exhibit No. 1 would be the Essential  
25 Facilities Agreement between UBTA UBET Communications,

1 Inc. and Bresnan Broadband of Utah, LLC. Correct?

2 A. Correct.

3 Q. And that is the agreement that UBTA UBET  
4 provided as its form of Essential Facilities Agreement.  
5 Correct?

6 A. Correct.

7 Q. And if I were to go through the questions  
8 with you contained in this Exhibit UU-1 today, would  
9 you have any changes to your testimony?

10 A. Actually that one's a little hard since we  
11 now have a red-line of the agreement. There are some  
12 things that have changed.

13 Q. Okay. And we'll go through their changes to  
14 the red-line agreement on an individual basis.

15 But not withstanding the red-line, is there  
16 any testimony that you would change with regard to this  
17 agreement that you've given?

18 A. No.

19 Q. Okay.

20 I'd like to move for the admission of  
21 Exhibit UU-1.

22 ADMINISTRATIVE LAW JUDGE: No objections?

23 MR. NELSON: No objection.

24 ADMINISTRATIVE LAW JUDGE: We'll admit that.

25 \* \* \*

1 (Whereupon, Exhibit No. UU-1  
2 was admitted.)

3 Q. (BY MS. SLAWSON) Ms. Wimer, you've been  
4 here in the hearing while Mr. Harris testified. Is  
5 that correct?

6 A. Correct.

7 Q. And, at the beginning of Mr. Harris's  
8 testimony, he offered up some -- some changes to his  
9 red-lined agreement that were not reflected in the  
10 red-line that he wanted to make sure we were all  
11 starting from the same point.

12 Do you have any changes similar to those to  
13 UBTA UBET's agreement, or to the red-line agreement  
14 that you would like reflected?

15 A. Yes.

16 Q. Specific changes to UBET's language?

17 A. Yes.

18 Q. Can you go through those now?

19 A. The first one, which Mr. Meredith did not  
20 have in front of him, but was on section -- the General  
21 Terms and Conditions, page one, Section 1.3.

22 MR. NELSON: Excuse me. I'm sorry. Are you  
23 looking at the red-line or your attachment?

24 THE WITNESS: I'm looking at the red-line.

25 All of these will be -- and I forget the

1 exhibit number of the red-line.

2 MS. SLAWSON: Bresnan 2.

3 MR. NELSON: Thank you. I apologize.

4 Q. (BY MS. SLAWSON) While we're there, let me  
5 clarify.

6 Throughout the remainder of your testimony,  
7 will you be looking solely to B2 when we refer to the  
8 Essential Facilities Agreement?

9 A. Yes.

10 Q. Okay.

11 MR. NELSON: Thank you.

12 THE WITNESS: One of the changes that we  
13 would submit to our language, to help clarify, which  
14 was obviously a question on Bresnan's part, but to  
15 insert the word on the language that they had deleted  
16 out in the first sentence.

17 Q. (BY MS. SLAWSON) And this is 1.3?

18 A. In 1.3.

19 So that it would read, "The provision of  
20 wholesale interconnection services" versus just plain  
21 wholesale service.

22 Q. Okay.

23 And you indicated that that correction would  
24 be necessary to clarify some confusion on Bresnan's  
25 part. Do you want to elaborate on that at all?

1           A. Well, as questioned back and forth with  
2 Mr. Meredith just a short time ago, there was question  
3 of whether Bresnan would be prohibited from providing  
4 any wholesale service. And clearly there are wholesale  
5 services that they could provide.

6           Our intent here is to make sure that a  
7 wholesale interconnection service, as offered by some  
8 other carriers nationwide, is the main concern here in  
9 this paragraph. That there were not four or five other  
10 carriers behind putting traffic through this agreement.  
11 And that there would be the penalty associated if, in  
12 fact, it was found that there was wholesale -- the  
13 interconnection and this agreement would be used as a  
14 wholesale service.

15          Q. Okay. And what would be the next change?

16          A. You have my list.

17                 I think it was new section on 34. That we  
18 were going to --

19          Q. Okay. Of the General Terms and Conditions.  
20 Section 34?

21          A. Or sorry, it would be 35, because it's  
22 not -- it would be a new section at the very end of the  
23 General Terms.

24          Q. And you would want -- and it's my  
25 understanding that you wanted to add a new section to



1 35 of the General Terms and Conditions, and you're  
2 indicating that I have that language here.

3 MS. SLAWSON: So may I approach, Your Honor?

4 ADMINISTRATIVE LAW JUDGE: You may.

5 Q. (BY MS. SLAWSON) Ms. Wimer, have you  
6 drafted new language to be added to Section 35?

7 A. Yes.

8 Q. Okay.

9 And what is that language?

10 A. And this language is a response.

11 There were some red-lines from Bresnan  
12 concerning pole attachment agreements, and -- and  
13 reading those, this is the new language. That it would  
14 be 35, called Facilities Usage, and --

15 Q. One moment before I -- before you read that  
16 language into the record.

17 MS. SLAWSON: Just for information of  
18 counsel, it's fairly long, so you're not probably going  
19 to want to write it down. I can provide you with a  
20 copy of the paragraph so you don't have to try to take  
21 notes.

22 Go ahead.

23 MR. NELSON: Okay.

24 MS. SLAWSON: You can try. That would  
25 probably take us to 5:30.

1                   THE WITNESS: Neither party shall have the  
2 right to utilize the other party's facilities,  
3 structures, cabinets, or equipment, parentheses,  
4 company assets, without prior authorization.  
5 Unauthorized use of such company assets shall be  
6 subject to the same penalties as defined in the Utah  
7 Rules 54-8(B17(3)(C)(i)(A).

8                   And such -- and such use shall be  
9 immediately terminated. Notwithstanding the  
10 foregoing, the parties agree to enter a pole attachment  
11 agreement within 120 days of when UBET presents such  
12 agreement to Bresnan. If agreement -- such agreement  
13 has not been completed in that time, either party may  
14 resolve the remaining issues according to the dispute  
15 resolution in this agreement.

16                   Shall I read it one more time?

17                   MS. SLAWSON: Do you need her to read it one  
18 more time?

19                   No. I think that's fine.

20                   Q. (BY MS. SLAWSON) And Ms. Wimer, what was  
21 the basis for the addition of that provision in this  
22 interconnection -- or Essential Facilities Agreement?

23                   A. There was -- the pole attachment agreement  
24 was mentioned several times in the agreement. Bresnan  
25 has red-lined out that language, and this was to

1 perhaps take in the concern of whether there was a pole  
2 attachment agreement or not a pole attachment  
3 agreement, and address that issue.

4 Q. Okay. And to your knowledge, are the  
5 companies attached to one another's poles?

6 A. My understanding is there are quite a few  
7 poles that UBET owns, that Bresnan is currently  
8 attached to.

9 Q. Okay.

10 Now what would be your next change?

11 MR. NELSON: I apologize. Is it possible to  
12 ask Ms. Wimer a clarification of the correction she  
13 just made before you move on to the next one?

14 MS. SLAWSON: It's fine with me.

15 ADMINISTRATIVE LAW JUDGE: Mm-hmm. Go  
16 ahead.

17 MR. NELSON: Ms. Wimer, I'm just trying to  
18 make sure I understand.

19 If you add the new paragraph 35, are you  
20 suggesting then you would go ahead and accept the  
21 strike outs as Bresnan proposed in the rest of the  
22 agreement, or is your suggestion add 35 and keep the  
23 other language that you've suggested?

24 I'm just -- what's your proposal with  
25 respect to the other language referencing pole

1 attachments?

2 THE WITNESS: That the -- I think --

3 I did not testify about the others, but I  
4 thought this would clarify to help the other language  
5 remain in.

6 MR. NELSON: Okay.

7 Thank you. Thank you, Ms. Slawson.

8 Q. (BY MS. SLAWSON) And what would be the next  
9 change that you had to the agreement?

10 A. The next thing that is responsive to I  
11 believe the Department's -- some of the department's  
12 testimony is that -- would --

13 Q. Would that be the Division?

14 A. Or I'm sorry, the Division. Sorry.

15 Is that we will now agree to change the  
16 proposed EAS rate from the 2.73 a month to \$1.80 a  
17 month. The \$1.80 being exactly the rate that the  
18 Vernal customers pay for EAS to UBET.

19 Q. Okay.

20 And do you have any additional changes?

21 A. You have my list.

22 Q. Well, we can just find that additional  
23 change as we go through here.

24 A. Okay.

25 Q. Let's go ahead and start on through the B2.

1 Essential Facilities Agreement.

2 And we'll just walk through some of the  
3 provisions that -- that differ -- that have been  
4 red-lined by UBTA UBET.

5 As an initial -- initially I'd like to refer  
6 you to Section 2.2 of the General Terms and Conditions.

7 A. Okay. 2.2, which is Term of the Agreement.

8 Q. Yes. It's -- Section 2 is titled Term of  
9 the Agreement.

10 Have you reviewed Bresnan's proposed  
11 red-line changes to this section of the agreement?

12 A. Yes, I have.

13 Q. And what problems, if any, do you foresee  
14 with Bresnan's proposed red-lines?

15 A. Well, the major problem is that the  
16 agreement essentially can never be terminated.

17 So that if you get to the end of the term,  
18 the agreement can be replaced by another agreement, but  
19 it can never be terminated.

20 And it does not have provisions that you  
21 never come to a resolution or how you would come to a  
22 resolution of negotiating a new agreement, if, in fact,  
23 a new agreement is required.

24 So -- whereas the UBET language does have a  
25 remedy to actually conclude the negotiations when the

1 parties come to a stalemate.

2 Q. And what is the process for resolving the  
3 situation if the parties come to a stalemate under  
4 UBET's language?

5 A. That they go to dispute resolution and can  
6 resolve the rest of the items. So that, in fact, you  
7 can move to a new agreement. If you're in an agreement  
8 and one party wants to change, the other party that  
9 doesn't want to change can't grab onto the existing  
10 agreement and keep it forever.

11 Q. And does the UBET language, is there a  
12 provision or a mechanism by which the parties can come  
13 back to the Commission?

14 A. No. Not that I see.

15 So, for example, on page three in the  
16 red-line that is blue, you know, the agreement's renew  
17 on a month-to-month basis. This agreement will  
18 terminate on successor agreement as approved by the  
19 Commission. And it -- it doesn't have a -- any way,  
20 if, in fact, you don't get to that new agreement.

21 Q. And maybe I misspoke, or misunderstood you.  
22 But the language that's proposed by UBET, does that  
23 language allow the parties to come to the Commission  
24 for a ruling in the event that an agreement is not  
25 reached?

1           A.    That is one of -- in our dispute resolution  
2    process, that is one of the things that is under the  
3    formal dispute resolution in this agreement.

4           Q.    Okay.

5                    Any other problems that you foresee with  
6    that -- with Bresnan's red-line changes to the -- that  
7    provision of the agreement?

8           A.    Well, we want all of our wording back in,  
9    but that is one of the major deficiencies.

10          Q.    We've -- we had already previously discussed  
11    Section 1.3, so I'm not going to go over that again.

12                    The next section that I'd like you to look  
13    at is Section 3.1.

14                    Now this morning, Mr. Harris had testified  
15    that one of the changes he wanted to make to this  
16    agreement was to change the numbering so that the first  
17    paragraph that appears there under Termination of the  
18    Agreement would be 3.2, and that the title would be  
19    Termination for Continuing Default.

20                    Do you see where I am?

21          A.    Okay. I had not picked up the wording  
22    change. I just thought -- oh, okay.

23          Q.    He had also --

24          A.    I guess I had marked mine in the wrong  
25    place.

1 Q. And you see where I am, so we're all talking  
2 about this same spot?

3 A. Yes.

4 Q. Do you -- in this agreement -- in this  
5 section of the agreement, it appears that Bresnan has  
6 attempted to make the provision reciprocal. Do you  
7 see that?

8 A. Yes.

9 Q. Okay.  
10 And do you have any specific problem with  
11 that?

12 A. No.

13 Q. And then I want to focus your attention down  
14 below where the references to the pole attachment  
15 agreement are redacted or red-lined out.

16 Do you agree with this deletion?

17 A. No.

18 Q. And can you tell us why you think this  
19 information should be in this provision?

20 A. Again, actually we do have an issue right  
21 now with pole attachments and a dispute, and we want to  
22 make sure that somewhere the arrangements for pole  
23 attachment are included. And do want a mechanism to  
24 include pole attachments in this agreement, but also  
25 reference and have more detail in what those



1 arrangements would be outside the agreement.

2 Q. Okay. And beyond that deletion to the pole  
3 attachment agreement, there are some lang -- UBTA UBET  
4 language that begins with Bresnan's assignment of any  
5 right, obligation, or duty. Do you see that language?

6 A. Yes.

7 Q. And I'll go on to read that. It says,  
8 "Bresnan's assignment of any right, obligation, or  
9 duty, in whole or in part, or of any interest under  
10 this agreement without any consent required under  
11 Section 6 of this attachment has been deleted."

12 Do you agree with that deletion?

13 A. No.

14 Q. Why not?

15 A. Essentially, if you assign the agreement to  
16 another party, when there hasn't been consent, you're  
17 now giving that party to a whole nuther entity, that  
18 you don't know what it's dealing with. So even -- you  
19 know, we talked earlier about the issue of somebody  
20 adopting the agreement. At least then we would know  
21 somebody was adopting the agreement. Under this  
22 arrangement, that would allow Bresnan to assign the  
23 agreement without us knowing, and all of a sudden we  
24 would be dealing with a different party.

25 Q. And is there any reason, in your opinion,

1 that that -- that prohibited assignment should not  
2 be -- or should not constitute a default under this  
3 agreement?

4 A. It should be a default, and that's why it  
5 would be here.

6 Q. Okay.

7 The next section I'd like to address your  
8 attention to was -- it was UBET's 3.3, Termination for  
9 Federal Preemption.

10 And UBET essentially had language that  
11 provided that if the FCC comes in and preempts the  
12 State in matters of interconnection of VoIP services,  
13 that UBET can terminate this agreement."

14 Why is this provision necessary to have in  
15 the agreement?

16 A. Well, I think when we came into this  
17 arrangement, the State has determined that this will be  
18 under State law. If State law is preempted, we have  
19 not gone under all of our rights under Federal law, and  
20 feel we need to -- if, in fact, the FCC does determine  
21 VoIP, that it does preempt State law, and we should be  
22 allowed all of our remedies under Federal law, which we  
23 have not had.

24 Q. Okay.

25 And this -- in order to try and shortcut

1 this entire process, this language or similar language  
2 is also found in Section 18 and 28.4 of the Bresnan B2  
3 exhibit. Would your same analysis apply to those  
4 sections as well?

5 A. Yes.

6 Q. Ms. Wimer, with respect to Bresnan's  
7 proposed language in 3.2, it's located in your -- in  
8 the agreement there as 3.2, they have wanted to rename  
9 that 3.1.

10 Have you reviewed that language?

11 A. I'm sorry. I just want to make sure. Is it  
12 the blue red-line?

13 Q. Yes. The blue that says default.

14 A. That says default. Okay.

15 Yes.

16 Q. And specifically, are there any issues that  
17 you have with that language?

18 A. Well, one, they did delete our three  
19 point -- our own 3.2 in bankruptcy, and the default  
20 provision don't seem to include bankruptcy.

21 Other than that, I --

22 The other -- sorry. The other issue is that  
23 it -- sorry, I got lost here.

24 I think the bankruptcy issue was the only  
25 issue.

1 Q. Okay.

2 I'll direct your attention to Section 6 of  
3 the General Terms and Conditions. And this is entitled  
4 Assignment.

5 UBTA UBET's language was red lined out and  
6 Bresnan has added its own language.

7 Have you reviewed their red-line language in  
8 Section 6?

9 A. Yes.

10 Q. And what issues, if any, do you have with  
11 this modification?

12 A. We would prefer not to assign the agreement,  
13 which this allows assignment of the agreement.

14 We would prefer when the agreement  
15 terminates, that the -- or when the assignment is made,  
16 that the assignment get a new agreement.

17 Q. And -- and would you have any objection to  
18 having that provision be reciprocal, in that neither  
19 party would assign the agreement?

20 A. No. We would not have any objection.

21 Q. And specifically, if you look at their  
22 language that they've proposed, and understanding that  
23 your testimony is that you believe UBET's language more  
24 closely tracks with UBET desires, do you have any  
25 specific issues or questions about their proposed

1 language?

2 A. Yeah. They do talk about assigning it to a  
3 corporate affiliate and common control, without any  
4 consent at all.

5 And an affiliate is defined but common  
6 control is not. So even those issues make it somewhat  
7 wide open and undefined.

8 Q. Moving forward to Section 8. This is -- it  
9 was an intentionally left blank section from UBTA UBET.  
10 Bresnan has added language entitled Standard Practices.

11 Have you reviewed their red-line language?

12 A. Yes. This was the one I forgot.

13 Q. Okay.

14 A. The change.

15 I'll read the wording modification first.

16 Q. And this is what you propose to have --

17 A. And this would be modifications to the  
18 Bresnan red-line.

19 Q. Okay.

20 A. And it would read, "The parties agree to  
21 adopt its own procedures that are not inconsistent with  
22 industry standard practices to satisfy the respective  
23 obligations under this agreement to the extent such  
24 practices are not in conflict with the terms of this  
25 agreement."

1                   And that would -- the words that were in the  
2           Bresnan agreement, "to adopt and employ," would be  
3           deleted.

4           Q.     Okay.

5                   Do you need her to go over that one again?

6           MR. NELSON: I'll wait for the version  
7           tomorrow.

8           MS. SLAWSON: Okay.

9                   THE WITNESS: And the reason for that is, as  
10          Mr. Meredith had said, most of the industry standards,  
11          since the Telecom Act has been around for ten years, or  
12          over ten years, most of the standards have Federal  
13          Act -- the Federal Act and FCC rules driving what those  
14          standards are.

15                   In addition, there's a myriad of standards  
16          out there.

17                   There was a question of plaintiff Harris  
18          this morning of what industry standards they were  
19          discussing. Each party does implement their own  
20          standards. They do have their processes that, even  
21          within telecommunications standards that are out there,  
22          not every standard is actually implemented by every  
23          telecommunications provider.

24                   And so this one, I think needs -- Bresnan's  
25          concerned about procedures being reciprocal. We will

1 be consistent with standards, but would not require us  
2 to implement every standard, nor change our own  
3 internal procedures to meet some perceived need by  
4 Bresnan.

5 Q. And is it your testimony that with the  
6 modification that you've suggested here today, that  
7 UBTA UBET would be fine with the addition of this  
8 Section 8?

9 A. Yes.

10 ADMINISTRATIVE LAW JUDGE: Would you like to  
11 end there, Ms. Slawson?

12 MS. SLAWSON: Sure.

13 ADMINISTRATIVE LAW JUDGE: Okay. Let's go  
14 ahead and end.

15 If you could get me the changes, Mr. Nelson,  
16 and Mrs. Slawson. And the discovery, if you'd get that  
17 to Mr. Nelson.

18 MS. SLAWSON: Yes.

19 MR. GINSBERG: Could we, at the end of this,  
20 submit a new -- one of these, that's a marked up  
21 version that would incorporate both of their changes in  
22 one document?

23 ADMINISTRATIVE LAW JUDGE: Yeah, that would  
24 be fine.

25 MR. NELSON: And just to --

1 MR. GINSBERG: And they could get together  
2 and agree.

3 MR. NELSON: I think, when we talked about  
4 on the phone doing the issues sort of matrix, I think  
5 one of the practical things I thought we would be able  
6 to do is produce an agreement with UBTA UBET's  
7 language, where this agreement, put their language and  
8 our language right next to each other.

9 MR. GINSBERG: Sort of side by side?

10 MR. NELSON: In some geometric shape.

11 So it's all reduced onto a single document,  
12 with both things side by side.

13 That, I think was part of what I was  
14 intending in that history matrix, to make it easier for  
15 everyone.

16 MS. SLAWSON: Right.

17 ADMINISTRATIVE LAW JUDGE: All right then.  
18 We'll see you tomorrow.

19 (Whereupon, the hearing  
20 was adjourned at 5:38 p.m.)

21 \* \* \*

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25



1 STATE OF UTAH )  
2 COUNTY OF SALT LAKE ) ss

3

4 THIS IS TO CERTIFY that the foregoing  
5 proceeding in the foregoing cause named, was taken  
6 before me, DEBRA A. DIBBLE, a Certified Shorthand  
7 Reporter and Notary Public in and for the State of  
8 Utah, residing at Woodland, Utah.

9

10 That the testimony of said proceeding was  
11 reported by me in Stenotype, and thereafter caused by  
12 me to be transcribed into typewriting, and that a full,  
13 true and correct transcription of said testimony so  
14 taken and transcribed is set forth in the foregoing  
15 annexed transcript.

16

17 I further certify that I am not of kin or  
18 otherwise associated with any of the parties to said  
19 cause of action, and that I am not interested in the  
20 event thereof.

21

22 IN WITNESS WHEREOF, I have hereunto set  
23 my hand this \_\_\_ day of  
24 \_\_\_\_\_, 2009.

25

26 Debra A. Dibble, C.S.R., R.P.R.

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