

D

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

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

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

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

May 13, 2008

VIA EMAIL

tnelson@hollandhart.com

Thorvald A. Nelson
Holland & Hart, LLP
8390 E. Crescent Parkway, Suite 400
Greenwood Village, CO 80111

Re: Bresnan Broadband of Utah's Request for Interconnection with UBTA-UBET
Communications, Inc.

Dear Mr. Nelson:

I am in receipt of your letter dated April 24, 2008. Thank you for responding to several of our questions. In reviewing your responses, however, UBTA-UBET respectfully disagrees with your analysis of Bresnan's request.

While we can assure you that UBTA-UBET will meet the requirements of all *applicable* federal rules, UBET-UBET is not convinced, based on Bresnan's response to our requests, that UBTA-UBET has an obligation to interconnect with Bresnan. Based on your response to our first question, we are not convinced that Bresnan qualifies for an interconnection arrangement under applicable federal law because Bresnan is not intending to use the interconnection arrangement for telecommunications services. Instead, it is quite clear that your client is seeking to deploy a VoIP service. As you are likely aware, the FCC has not yet made the determination that VoIP Service is a telecommunications service. Your reference to the FCC's *Time Warner* decision is unavailing. While you seem to be arguing that Bresnan qualifies for interconnection as a telecommunications carrier providing qualifying services, we respectfully disagree. *Time Warner* does not give your client the ability to request services when it provides the end-user VoIP service. In fact the FCC in the *Time Warner* makes it clear that its decision does not extend to VoIP providers directly, specifically, the *Time Warner* order does not give VoIP providers their own interconnection rights. In fact, we believe that the question of VoIP providers' interconnection rights is unclear under federal law.

Thorvald A. Nelson
May 13, 2008
Page 2

This understanding is confirmed by the FCC's recent acceptance of a petition by Vermont Telephone seeking a declaratory ruling addressing the same matter presented before us by Bresnan.¹ Specifically, Vermont Telephone is specifically asking the FCC to clarify whether VoIP providers are entitled to the interconnection rights of telecommunications carriers. The fact that the FCC is currently seeking comment on a matter closely related to Bresnan's request for interconnection persuades us that ILEC's interconnection obligations with VoIP providers is unsettled, and prudence dictates UBTA-UBET postpone discussion of interconnection with Bresnan until the FCC makes a determination on the requirement of rural ILECs to interconnect with cable companies that provide VoIP service.

Your references in the April 24, 2008 letter to Utah law are unavailing. Federal law and federal regulations govern the duties found in Section 251 of the Act. Additionally, your reference to 47 CFR § 51.301 is not applicable to UBTA-UBET at present.

Sincerely,

BLACKBURN & STOLL, LC

Kira M. Slawson

Kira M. Slawson

¹ See Vermont Telephone Petition, DA 08-08-916. And See FCC acceptance of this Petition in Public Notice.