

June 18, 2009

*Via ECFS*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Ex Parte Meeting, WC Docket No. 08-238**

Dear Secretary Dortch:

On Wednesday, June 17, 2009, Jerry Lambert, Vice President and Associate General Counsel for Bresnan Communications, LLC (“Bresnan”) and Michael Pryor of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. met with Jennifer Schneider, legal advisor to Acting Chairman Copps and separately met with Mark Stone, legal advisor to Commissioner Adelstein. The parties discussed the information that Bresnan provided in the talking points attached to this letter, as well as Bresnan’s arguments and the proposed conditions provided in Bresnan’s written ex parte dated April 20, 2009.<sup>1/</sup>

In accordance with Section 1.1206 of the Commission’s rules, one copy of this letter is being filed electronically via ECFS, and one will be delivered via email to each of the FCC participants.

Respectfully submitted,

*/s/ Michael H. Pryor*  
Michael H. Pryor  
*Counsel for Bresnan*

cc (via email):

Jennifer Schneider  
Mark Stone

<sup>1/</sup> See Letter to Marlene H. Dortch, Secretary of the Federal Communications Commission from Michael H. Pryor, Counsel to Bresnan Communications, LLC, WC Docket No. 08-238 (filed April 20, 2009).

# **Bresnan Communications, LLC**

## **I. Who is Bresnan Communications, LLC?**

- Bresnan provides video, broadband, and voice services in four western states.
- Bresnan has approximately 330,000 subscribers and serves primarily rural areas and small towns.
- Bresnan has provided competing voice services to residential consumers in the CenturyTel areas of Montana and Colorado since mid-2006.
- Bresnan began providing competing voice services to small businesses in Montana and Colorado in late 2008 and early 2009, respectively.

## **II. Bresnan's Experiences with CenturyTel Are Similar to Those of Other Providers**

- CenturyTel's wholesale service systems are woefully inadequate.
  - The system is characterized by excessive delays:
    - Six (6) business day interval for simple ports;
    - It takes weeks or months to port business customers;
    - Uninformed or untrained account representatives and cumbersome manual processes;
  - CenturyTel fails to follow its alleged policy of no repeat rejections. The following is an example of how these various problems interact to cause extraordinary delay. The initial LSR for this business customer was submitted on January 23, 2009, thereafter:
    - 1/27/09: the order was rejected for including an inactive telephone number.
    - 1/29/09: the order was rejected for failing to include a circuit ID. CenturyTel ultimately confirmed that there was no circuit ID for the customer.
    - 2/5/09: the order was rejected because the customer needed to call CenturyTel to migrate a circuit.
    - 3/3/09: the order was rejected because certain lines were associated with different business locations, necessitating the submission of different orders, each with a purchase order number ("PON").
    - 3/9/09: the order was rejected for failing to include the local service originating (NPA/NXX) information.
    - 3/11/09: the order was again rejected for failing to include a circuit ID.
    - 3/18/09: the order was rejected for failure to specify which circuits were to be disconnected and which numbers were associated with those circuits.
    - 3/24/09: the order was rejected for failure to note that the customer utilized a third-party internet service provider.
    - Nearly three months from the initial request, the telephone numbers were finally ported on April 3, 2009.

- CenturyTel charges excessive fees to obtain CSRs and to process requests for number porting.
  - CSR fee is \$31.20 in Montana, \$20 in Colorado.
- Representatives make untruthful, disparaging remarks about Bresnan during migration.
  - Claims Bresnan customers will not have 911 service.

**III. The Merger is not in the Public Interest Absent Conditions to Ensure CenturyTel Improves Wholesale Processes and Resources**

- The commitments are vague and unenforceable.
- Merger conditions are necessary to backstop commitments:
  - Require CenturyTel to adopt Embarq OSS within 6 months;
  - Lift CenturyTel's wholesale service order cap and impose self-enforcing penalties on CenturyTel for missing porting intervals, including newly established one business day interval for simple port requests;
  - For multi-line business ports, CenturyTel should adopt Embarq's best practices;
  - Eliminate CSR and number porting order charges;
  - Require CenturyTel to train its representatives to cease making misrepresentations about competitors, failure to adequately train must be coupled with penalties; and
  - Ban win-back activities.