



# PUBLIC NOTICE

**Federal Communications Commission**  
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**Washington, D.C. 20554**

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**DA 10-2159**  
**Released: November 8, 2010**

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON UTEX COMMUNICATIONS CORPORATION'S MOTION FOR RECONSIDERATION OF ORDER DENYING PETITION FOR PREEMPTION**

**WC Docket No. 09-134**

**COMMENTS DUE: November 23, 2010**  
**REPLY COMMENTS DUE: December 3, 2010**

On July 13, 2010, UTEX Communications Corporation (UTEX) filed a renewed petition for preemption of the jurisdiction of the Public Utility Commission of Texas pursuant to section 252(e)(5) of the Communications Act of 1934, as amended, and section 51.803 of the Commission's rules.<sup>1</sup> In its petition, UTEX requested that the Commission "preempt the jurisdiction of the Public Utility Commission of Texas (the "PUCT") and arbitrate the pending interconnection disputes between UTEX and Southwestern Bell Telephone Company d/b/a AT&T Texas."<sup>2</sup> UTEX claimed the "PUCT has failed to resolve the arbitration by the deadline established by the Commission."<sup>3</sup> The Bureau denied the Renewed Petition on October 6, 2010, finding that UTEX failed to meet its burden of showing that the PUCT "fail[ed] to act" on the interconnection dispute between UTEX and AT&T Texas.<sup>4</sup> On November 3, 2010, UTEX filed a motion for reconsideration of the Bureau Order alleging: (1) new facts that require reconsideration; (2) failure by the PUCT to resolve all open issues; and (3) Bureau error concerning the statutory deadline.<sup>5</sup>

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<sup>1</sup> See UTEX Communications Corporation, Petition for Preemption, WC Docket No. 09-134 (filed July 13, 2010) (Renewed Petition). UTEX's original preemption petition was denied on October 9, 2009. See *In the Matter of Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134, Memorandum Opinion and Order, 24 FCC Rcd 12573 (WCB 2009).

<sup>2</sup> Renewed Petition at 1.

<sup>3</sup> *Id.*

<sup>4</sup> See *In the Matter of Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134, Memorandum Opinion and Order, DA 10-1920, para. 3 (WCB rel. Oct. 6, 2010)(Bureau Order).

<sup>5</sup> UTEX Communications Corporation, Motion for Reconsideration, WC Docket No. 09-134 (filed Nov. 13, 2010) (Motion for Reconsideration).

Interested parties may file comments on the UTEX Motion for Reconsideration on or before **November 23, 2010** and reply comments on or before **December 3, 2010**. Filings in this proceeding should be captioned "UTEX Communications Corp., Petition for Preemption" and filed in **WC Docket No. 09-134**.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Two courtesy copies must be delivered to Victoria Goldberg, Federal Communications Commission, Wireline Competition Bureau, Pricing Policy Division, 445 12th Street, SW, Room 5-A266, Washington, DC 20554 or via e-mail at [victoria.goldberg@fcc.gov](mailto:victoria.goldberg@fcc.gov). One copy must also be sent to Best Copy and Printing, Inc., Portals II, 445 12th Street SW, Suite CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov) and include the following words in the body of the message: `get form <your email address>`. A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. **Parties are strongly encouraged to file comments electronically using the Commission's ECFS.**

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

This Public Notice establishes certain procedural requirements relating to consideration of the petition for preemption. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>6</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.<sup>7</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>8</sup>

For further information, contact Victoria Goldberg of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-1520, or via e-mail at [victoria.goldberg@fcc.gov](mailto:victoria.goldberg@fcc.gov).

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<sup>6</sup> See 47 C.F.R. §§ 1.1200, 1.1206.

<sup>7</sup> See 47 C.F.R. § 1.1206(b).

<sup>8</sup> See *id.*