

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ARB 199(23)

In the Matter of	)	
	)	
ESCHELON TELECOM OF OREGON, INC.	)	STAFF COMMENTS
and QWEST CORPORATION,	)	
	)	
Twenty-third Amendment Submitted For	)	
Commission Approval Pursuant to Section	)	
252(e) of the Telecommunications Act of 1996.	)	

RECOMMENDATION:      APPROVE AMENDMENT

On December 12, 2005, Eschelon Telecom, Inc. and Qwest Corporation filed the twenty-third amendment to the interconnection agreement previously approved by the Public Utility Commission of Oregon (Commission). The parties seek approval of this amendment under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the amendment on the World Wide Web, at: <http://www.puc.state.or.us/caragmnt/>. The Commission Staff (Staff) offers these comments.

Under the Act, the Commission must approve or reject an agreement reached through voluntary negotiation within 90 days of filing. The Commission may reject an agreement only if it finds that:

- (1) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (2) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

Qwest's interconnection agreements generally include a provision that allows the companies to make changes in the terms and prices of the agreements when a law changes. The amendment is made in accordance with the FCC Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand (TRRO) issued on February 4, 2005, with an effective of March 11, 2005. The amendment states that the parties will retroactively bill for the UNE's involved. Generally retroactive billing is cause for concern. However, the retroactive billing associated with this amendment is directly related to the changes brought about by the TRRO. The TRRO allows a transition period for implementation of the provisions. The transition period is coming to an end and this amendment acts as a bridge agreement between the parties while they negotiate a new interconnection agreement under the new provisions.

Staff recommends approval of the amendment. Staff concludes that the amendment to the previously approved agreement does not appear to discriminate against

telecommunications carriers who are not parties to the agreement and does not appear to be inconsistent with the public interest, convenience, and necessity.

Staff notes that an interconnection agreement or amendment thereto has no effect or force until approved by a state Commission. *See* 47 U.S.C. Sections 252 (a) and (e). Accordingly, Staff points out that the effective date of this filing will be the date the Commission signs an order approving it, and that any provision stating that the parties' agreement is effective prior to that date is not enforceable.

Dated at Salem, this 9<sup>th</sup> day of January, 2006.

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**Celeste Hari**  
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