



500 IDS CENTER
30 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402-3796
MAIN: 612.632.3000
FAX: 612.632.4444

GREGORY R. MERZ
ATTORNEY
DIRECT DIAL: 612.632.3257
DIRECT FAX: 612.632.4257
GREGORY.MERZ@GPMLAW.COM

May 5, 2008

The Honorable Samuel J. Petrillo
Oregon Public Utility Commission
550 Capital Street, NE, Suite 215
Salem, OR 97301

Re: ARB 775 (Qwest/Eschelon ICA Arbitration) – Eschelon Reply to Qwest’s
Objection to Eschelon Comments

Dear Judge Petrillo:

In response to Qwest’s letter of today, Eschelon opposes Qwest’s request. In particular, Eschelon objects to Qwest’s characterization of any portion of Eschelon’s comments as “untimely.” Eschelon timely filed comments on the Arbitrator’s Report in this matter pursuant to OAR 860-016-0030 and the Arbitrator’s order.¹ Both parties filed their comments a full week ago, but Qwest’s filing today is the first Eschelon learned of Qwest’s objection and request.

There is no limitation in the rules regarding the nature of the comments along the lines suggested by Qwest’s letter. Qwest objects to a “new proposal” regarding rates in Eschelon’s comments, without pointing out that Qwest also made a “new proposal” in Qwest’s comments. Qwest proposed modified language for Jeopardies (Issues 12-71 – 12-73). Both parties have likewise proposed new or modified language in the Qwest-Eschelon arbitrations in other states in response to decisions in those states, so this comes as no surprise to Qwest.

With respect to Issue 22-90 and subparts, the Arbitrator recommends rejecting both parties’ proposals and using a different approach. Therefore, the Comments were the first opportunity that the parties had to comment on this approach. The Arbitrator developed the methodology but did not calculate the results, and the Arbitrator invited the parties to calculate interim rates.² Qwest was free to make those calculations and comment upon them in a timely manner, just as Eschelon made the calculations and commented upon them in a timely manner.

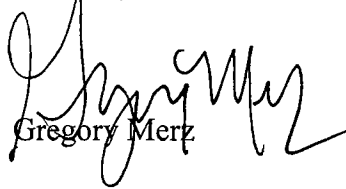
¹ The Arbitrator extended the deadline to file comments regarding the Arbitrator’s Decision to within 30 days. *See* Arbitrator’s Decision, p. 83, ¶4.

² Arbitrator’s Decision, p. 82.

The Honorable Samuel J. Petrillo
May 5, 2008
Page 2

Qwest is essentially requesting a reply opportunity to compensate for its own failure to calculate the recommended interim rates, as suggested by the Arbitrator, and to comment upon the result in a timely manner. The rules, however, do not permit replies. Qwest's request should be denied. If Qwest is nonetheless granted a reply opportunity, Eschelon may seek an opportunity to respond after it has had an opportunity to review any Qwest reply.

Sincerely,



Gregory Merz

GRM/

cc: Alex M. Duarte
Jason Topp
Mark Trinchero
Frances Nichols

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket No. ARB 775

In the Matter of the Petition of
Eschelon Telecom of Oregon, Inc. for
Arbitration with Qwest Corporation,
Pursuant to 47 U.S.C. Section 252 of the
Federal Telecommunications Act of
1996

CERTIFICATE OF SERVICE


I hereby certify that Eschelon Telecom of Oregon, Inc.'s response to Qwest's objection to Eschelon's rate proposal dated May 5, 2008, was filed electronically with the Oregon Public Utility Commission on May 5, 2008. The original and three copies were sent via overnight mail on the 5th day of May, 2008 to:

Oregon Public Utility Commission
ATTN: Filing Center
550 Capitol Street N.E.
Suite 215
Salem, Oregon 97301-2551

and true and correct copies were sent via email ONLY on May 5, 2008, to:

Jason.Topp@qwest.com
marktrinchero@dwt.com
Alex.Duarte@qwest.com
Gregory.merz@gpmlaw.com
Sam.Petrillo@state.or.us
Frances.Nichols@state.or.us

DATED this 5th day of May, 2008.



Tobe L. Goldberg