

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1326

In the Matter of Qwest Corporation Petition for Commission Approval of 2007 Additions to Non-Impaired Wire Center List	ESCHELON TELECOM OF OREGON INC.'S MOTION FOR A STANDING PROTECTIVE ORDER BASED ON MODEL ORDER
---	--

Eschelon Telecom of Oregon, Inc. ("Eschelon") requests that the Commission approve a standing protective order¹ (to supersede the Standard Protective Order of the Commission) based on the model protective order attached as Exhibit E to the proposed Settlement Agreement between Qwest and the Joint CLECs² that was submitted with a request for approval in Docket UM 1251 on June 27, 2007.³ Attachment 1 to this Motion

¹ "Standing protective order" as used in this Motion refers to a protective order for use in the "Wire Center Docket" (as that term is defined in the Attachments to the proposed Settlement Agreement, which definition is copied in a footnote below) as described in Section VII(C) of the proposed Settlement Agreement, should that provision be approved. Section VII(C) is copied below in its entirety and provides in pertinent part regarding definition: "a standing protective order based upon the attached model protective order . . . will apply in future proceedings. Where a Commission adopts a standing protective order, Qwest is not required to submit a request for a new protective order, and CLECs that have signed the protective order are not required to re-sign it for each new Qwest request."

² "Joint CLECs" is a defined term in the proposed Settlement Agreement, which provides in the definitions (Section II) that "Joint CLECs" refers collectively to Covad Communications Company ("Covad"), Eschelon Telecom, Inc. ("Eschelon"), Integra Telecom Holdings, Inc. ("Integra"), McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), Onvoy, POPP.Com ("POPP"), US Link, Inc. d/b/a TDS Metrocom ("TDSM"), and XO Communications Services, Inc. ("XO")."

³ Qwest's filing on June 27, 2007 superseded and replaced the filing for approval of the proposed Settlement Agreement made by Qwest on June 22, 2007 in UM 1251. Qwest styled its June 22nd filing requesting approval of the proposed Settlement Agreement as a joint filing, indicating Eschelon agreed with it, although Eschelon had not seen the June 22nd filing before Qwest filed it and, when Eschelon did receive a copy, did not agree with its contents. (In particular, Qwest's June 22nd filing contained an alleged joint request that was objectionable, for example, because it broadly asked to supersede any previous Commission order to the extent any part of a previous order is inconsistent with the proposed settlement, and did so without identifying the parts of the particular orders or the affected carriers, etc.). Eschelon offered Qwest an opportunity to correct, and Qwest filed the revised filing on June 27th.

is a copy of Exhibit E. Attachment 2 to this Motion is a draft protective order. Because Exhibit E (in the form filed with the Commission) is a copy of the Minnesota protective order including the Minnesota caption, Attachment 2 varies from Attachment 1 in that state-identifying information has been provided in Attachment 2 to reflect that the order is applicable to Oregon rather than Minnesota.⁴ While the proposed Settlement Agreement has not yet been approved, Qwest's actions with respect to a protective order, which are described below and which Qwest has claimed were taken pursuant to the proposed Settlement Agreement, have prompted the need to file this Motion at this time.⁵

Eschelon requests that any existing applicable protective order in this docket UM 1326 (referred to as the "Wire Center Docket"⁶), to the extent it is to continue or become a "standing" protective order, be modified to contain the language of Attachment 1 (with the state-identifying information from Attachment 2).

On June 22, 2007, Qwest filed the petition for Commission approval of Qwest's proposed 2007 additions to a Commission-approved wire center list in which it requested

⁴ The Joint CLECs provided a version of proposed Exhibit E that is not specific to Minnesota to Qwest on May 23, 2007 for use as Exhibit E. Qwest used the Minnesota version, with the Minnesota caption, instead of working from that document. For Attachment 2, Eschelon has taken the version of Exhibit E sent to Qwest on May 23rd and added Oregon identifying information (caption, docket number, agency name.). If Qwest desired additional changes to make the document Oregon specific, it did not respond (e.g., by redlining the May 23, 2007 Exhibit E) to request additional changes.

⁵ By claiming it is relying on the proposed Settlement Agreement before it is approved, while not actually complying with Paragraph VI(C), as discussed below, Qwest has created a "Catch-22." It was premature, for example, to appeal the ALJ's ruling on the Modified Protective Order based on Paragraph VI(C), because the proposed Settlement Agreement was not approved, but it may seem that there is agreement to Qwest's conduct, when that is not the agreement Qwest made in Paragraph VI(C). As Qwest has since denied Eschelon's request to formally seek only the model protective order, Eschelon has had to make this request.

⁶ The proposed ICA language attached to the proposed Settlement Agreement (in Attachments B, C, and D) contains the following definition: "'Wire Center Docket' means Commission Docket No. UM 1251 entitled 'In the Matter of COVAD COMMUNICATIONS COMPANY; ESCHELON TELECOM OF OREGON, INC.; INTEGRA TELECOM OF OREGON, INC.; MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.; and XO COMMUNICATIONS SERVICES, INC. Request for Commission Approval of Non-Impairment Wire Center List,' *and any successor or separate Commission docket in which Qwest files a request(s)* to add additional non-impaired wire center(s) to the Commission-Approved Wire Center List, and the Commission approves addition of wire center(s) to the list." (emphasis added). The term "Wire Center Docket", therefore, applies to this docket UM 1326.

a protective order,⁷ and Qwest chose to reference the as yet unapproved Settlement Agreement in that petition. On June 25, 2007, Qwest also filed a motion in the form of a letter requesting a protective order, as discussed below. Qwest's petition and motion were not joint filings with the Joint CLECs. Eschelon did not know that Qwest was filing its petitions regarding multiple additions to the wire center lists and requesting protective orders in multiple states on June 22, 2007.⁸ Qwest chose to file its petitions regarding additions to the wire center lists on the same date (June 22, 2007) as its initial (later withdrawn⁹) request for approval of the proposed Settlement Agreement, but did not coordinate with Eschelon regarding the filing of its requests for a protective order in this docket. Although Qwest referred to the proposed Settlement Agreement in its petition and motion, any suggestion through the timing of its petition that Qwest was seeking a protective order based on the modified protective order in Docket UM 1251 with Eschelon's knowledge or agreement is incorrect, and it is inconsistent with Paragraph VI(C) of the proposed Settlement Agreement relied upon by Qwest.

Paragraph VI(C) of the proposed Settlement Agreement provides:

At least five (5) days prior to filing new non-impairment or tier designations for Commission review, Qwest will request a protective order from the Commission to govern the handling of confidential information during the proceedings. Attached as Exhibit E to this Settlement Agreement, is a model protective order. The Parties agree to seek from the individual Commission's approval for a standing protective order based upon the attached model protective order that will apply in future proceedings. Where a Commission adopts a standing protective order, Qwest is not required to submit a request for a new protective order, and CLECs that have signed the protective order are not required to re-sign it

⁷ Regarding Qwest's request for additions, see Eschelon's separate filing of today in this docket UM 1326 (Eschelon's Objections Regarding Qwest's Petition for Approval of 2007 Additions to Non-Impaired Wire Center List), which is incorporated herein by reference.

⁸ See footnote 16, below, regarding Qwest notice NETW.06.22.07.2818.Add_Non_IM_Wire_Ctr (June 22, 2007).

⁹ See footnote 3, above, regarding Qwest's June 27, 2007 filing, which replaced entirely the June 22, 2007 filing in UM 1251.

for each new Qwest request. A Commission may modify a standing protective order using its standard processes and procedures after Qwest has made its filing.

There is no provision in Paragraph VI(C) for Qwest to seek any protective order other than one based upon the attached model protective order. There is no provision, for example, that Qwest will seek *either* the model protective order *or* the order from an earlier or separate wire center docket (or any other protective order). The protective orders that were in place in existing or previous wire center dockets in each state were available to Qwest and the Joint CLECs when they entered into the multi-state proposed Settlement Agreement, and yet Paragraph VI(C) provides only that the parties to the proposed Settlement Agreement agree to seek a protective order based upon the model protective order attached as Exhibit E. Although there are other provisions in the proposed Settlement Agreement to jointly seek expedited rulings,¹⁰ Paragraph VI(C) contains no expedite provision. Particularly while the proposed Settlement Agreement is under review, and when the provisions are implemented for the first time, if it is approved, taking the time to consider the model protective order as a standing protective order is warranted, and it should be adopted. Eschelon agreed to the other joint expedite request provisions in the Settlement Agreement with an understanding that the parties to the proposed Settlement Agreement would have sought a protective order based on Exhibit E before those provisions would come into play. Having one, consistent, known protective order in place across multiple states would assist in meeting expedited time frames.

In supporting the model protective order in Arizona (a state in which Qwest requested only Exhibit E for use as the protective order as outlined in Paragraph VI(C)), Qwest's counsel recently summarized Qwest's multi-state agreement regarding the protective order and the need for multi-state use of the model protective order as follows:

¹⁰ See proposed Settlement Agreement ¶¶VI(F)(2)(a)&(b) & VI(F)(3)(a).

In the settlement agreement between Qwest and the Joint CLECs, the parties agreed upon a form of protective order which the parties seek to have used in front of the various state commissions for future submissions Qwest, when we filed our application for approval of the 2007 additions, asked the Commission to please issue a protective order based upon that form of order, and it was attached to our filing that we made on June 22. In defense of the protective order that we're proposing, *it's one which Qwest and the Joint CLECs have considered*. And it, I think, *is a matter of significant efficiency for those parties to have the same protective order be used in multiple jurisdictions, and it's economic in that it relieves us of the need to deal with separate protective orders with the nuances that each might have, varying from state to state.*¹¹

Nothing in Paragraph VI(C), or the remainder of the proposed Settlement Agreement, envisions a scenario in which Qwest would also unilaterally seek different protective orders that vary by state, and also request Commission action on an expedited basis.

On June 22, 2007, Qwest filed its individual petitions regarding additions to the wire center lists in multiple states. In Washington, on page 1 of its petition, Qwest stated (with emphasis added): “*pursuant to the . . . settlement agreement* filed for approval in Docket No. UT-053025, Qwest requests that the Commission issue *on an expedited basis* a protective order based on *either Order No. 1 in Docket No. UT-053025 or* the model protective order attached hereto as Attachment A.” In Oregon, an example of a significant difference between the protective orders is that the model protective order contains a provision for the masking of data (in paragraph 5) while the Modified Protective Order in Docket No. UM 1251 does not.¹² Qwest cited no specific provision

¹¹ Transcript of Procedural Conference, “In the Matter of the Application of DIECA Communications DBA Covad Communications Company, Eschelon Telecom of Arizona, Inc., McLeodUSA Telecommunications Services, Inc., Mountain Telecommunications, Inc., XO Communications Services, Inc. and Qwest Corporation Request for Commission Process to Address Key UNE Issues Arising from Triennial Review Remand Order, Including Approval of Qwest Wire Center Lists. (AZ Wire Centers),” Arizona Docket Nos. T-03632A-06-0091; T-03267A-06-0091; T-04302A-06-0091; T-03406A-06-0091; T-03432A-06-0091; and T-01051B-06-0091 (July 19, 2007), p. 17, lines 7-24 (emphasis added).

¹² Despite the absence of a masking provision in the modified protective order currently in effect, Qwest not only provided the data in masked form but also, when providing it, did not provide the codes. Qwest did not provide the codes until later (on July 16, 2007, when Qwest provided other data).

permitting Qwest to seek a different protective order as an alternative, and there is no such provision in the proposed Settlement Agreement. Qwest nonetheless also made this type of contingent request in Colorado.¹³

In Oregon, in this docket, Qwest's request initially was not a contingent request. On June 22, 2007, Qwest requested only the model protective order (attaching Exhibit E) and recognized that "Qwest and the Joint CLECs in docket UM 1251 negotiated and agreed to this protective order"¹⁴ In its letter dated June 25, 2007, Qwest said:

The parties agreed in the settlement agreement that Qwest would seek the prompt issuance of a protective order 'based on' that Minnesota protective order, and thus Qwest did so. *However*, in the event the Commission prefers to use a protective order that it has previously used, such as for example, the modified protective order in Docket 1251 (which involved similar issues), Qwest hereby submits a Word version of a draft protective order that is based on the modified protective order that the Commission adopted in docket UM 1251 (Order No. 06-141).¹⁵

While the proposed Settlement Agreement recognizes that the Commission on its own may modify a standing protective order, nothing in the proposed Settlement Agreement envisions a Commission modification made at the behest of a party to the proposed Settlement Agreement, with the party arguing against itself by seeking a different protective agreement contrary to the one it agreed it would seek based upon Exhibit E.

Eschelon fully recognizes that the proposed Settlement Agreement has not yet been approved. Qwest, in contrast, specifically represented that it filed its request "pursuant to the . . . settlement agreement," while at the same time it did not act pursuant to the terms of Paragraph VI(C) of the proposed Settlement Agreement. In addition to referring to Exhibit E as a basis for the request, Paragraph VI(C) states that "the parties"

¹³ In Arizona and Minnesota, Qwest cited Paragraph VI(C) of the proposed Settlement Agreement and asked the Commission's to enter an order based on the model protective order (attaching Exhibit E). See the discussion above, citing an Arizona transcript.

¹⁴ Qwest Corporation's Petition for Commission Approval of 2007 Additions to Non-Impaired Wire Center List and Motion for Expedited Issuance of Protective Order, UM 1326 (June 22, 2007).

¹⁵ Qwest June 25, 2007 Letter Regarding "Draft Protective Order based on Protective Order in docket UM 1251," p. 1 (emphasis added) (copy of cover letter provided as Attachment 4 to this Motion).

(plural) will seek the standing protective order, but Qwest did not make its June 22, 2007 request for a protective order jointly with Eschelon or seek Eschelon's participation in any prior attempts to discuss or seek that protective order.¹⁶ Qwest presumably knew in advance that it intended to file multiple requests for additions to the lists on June 22, 2007 and could have involved Eschelon earlier to allow the companies to jointly seek an order and to allow more time for consideration of the request.¹⁷

On June 27, 2007, the Commission entered its Modified Protective Order (Order No. 07-281). It is not based on the model order that is the subject of Paragraph VI(C) of the proposed Settlement Agreement. Qwest provided a draft protective order "based on" the protective order in docket UM 1251,¹⁸ and a comparison of that document to the Modified Protective Order shows that they are substantially the same.¹⁹

On June 28, 2007, Eschelon contacted Qwest by email to ask why Qwest had proceeded in this manner and, referencing Paragraph VI(C) of the proposed Settlement Agreement, to ask Qwest if Qwest would seek a protective order based only on the model protective order. Eschelon said, for example: "If litigation could be avoided by substituting the model protective order per paragraph VI(c), we would appreciate it."²⁰ In

¹⁶ On the afternoon of June 22, 2007 (the date of Qwest's filing of its petition regarding additions), Qwest sent an email notice to CLECs stating (in the future tense) that it "will file petitions" in seven states for wire centers identified in the notice and "will also request a protective order." See NETW.06.22.07.2818.Add_Non_IM_Wire_Ctr (June 22, 2007).

¹⁷ Since Qwest did not adhere to the provisions of Paragraph VI(C) in the proposed agreement upon which it relied anyway, Qwest could have made a request for the protective order much earlier to allow opportunity for comment, with or without reference to a potential settlement agreement. If Qwest wanted to follow its provisions, the proposed Settlement Agreement provides that the request for a protective order must be made "at least" five days before filing the petition, so it clearly provides Qwest may file a request for a protective order farther in advance in anticipation of a filing.

¹⁸ See Attachment 4 (subject line & p. 1: "Qwest hereby submits a Word version of a draft protective order that is based entirely on the modified order that the Commission adopted in docket UM 1251").

¹⁹ Order No. 07-281 refers to the "modified" protective order instead of the "order"; the last sentence on page 3 has a modified sentence relating to paper color and binding of unredacted versions; and paragraph (f) on page 7 has a revised sentence.

²⁰ Had Qwest requested only the model protective order initially (when Qwest claimed it was acting pursuant to the proposed Settlement Agreement, and making the request would not have required a separate filing because Qwest was filing a petition with the Commission anyway), Eschelon would not have had to expend the additional time and resources of filing this separate motion (in several states), and there would

addition, Eschelon reserved its rights, stating: “we reserve our right to ask for a revised protective order based on the model protective order, though we do not believe that should be our obligation since the agreement was to seek the model up-front.” Eschelon has at no time since then withdrawn its reservation of rights.

Qwest did not agree to request only the model protective order, but Qwest still wanted to expedite matters. Though the proposed Settlement Agreement has not yet been approved, Eschelon did not delay. Eschelon has signed the protective order, while reserving its rights under the proposed Settlement Agreement should it be approved. Although Qwest may claim that it provided all of its data by July 2, 2007, Qwest did not provide the codes (which were required given that Qwest masked the data despite the absence of a masking provision in the modified protective order) and other data until July 16, 2007.

The language of Paragraph VI(C) of the proposed Settlement Agreement has not changed and continues to refer to a “standing protective order” based on the model protective order (Exhibit E). Qwest has already filed requests in multiple states to obtain additional non-impaired wire center designations, irrespective of any rulings on approval of the proposed Settlement Agreement. A consistent standing protective order will facilitate exchange of information in multiple states.

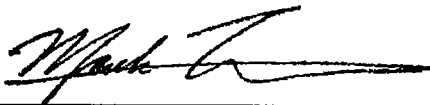
For these reasons, Eschelon requests the Commission issue a standing protective order containing the language of Attachment 1 (with the state-identifying information from Attachment 2) instead of the protective order issued in this docket.

have been more administrative efficiency because the Commission would not have had to address multiple requests regarding the protective order.

Respectfully submitted this 27 of July, 2007

DAVIS WRIGHT TREMAINE LLP

By:



Mark P. Trincherro OSB#88322
1300 SW Fifth Avenue, Suite 2300
Portland, OR 97201
Tel: (503) 241-2300
Fax: (503) 778-5299

Ginny Zeller
Associate General Counsel
Eschelon Telecom Inc.
730 2nd Ave. South, Suite 900
Minneapolis, MN 55402
612-436-1888

Attorneys for Eschelon Telecom of Oregon, Inc.

ATTACHMENT I

**Attachment E to Settlement Agreement in
Minnesota OAH Docket No. 11-2500-17274-2**

STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Phyllis A. Reha	Commissioner
Kenneth A. Nickolai	Commissioner
Thomas Pugh	Commissioner

In the Matter of CLECs' Request for
Commission Approval of ILEC Wire Center
Impairment Analysis

MPUC Docket No. P-5692, 5340,
5643, 5323, 465, 6422/M-06-211

In the Matter of a Commission
Investigation Identifying Wire Centers in
which Qwest Corporation Must Offer High-
Capacity Loop or Transport UNEs at Cost-
Based Rates

MPUC Docket No. P-999/C1-06-685

OAH Docket No. 11-2500-17274-2

PROTECTIVE ORDER

The purpose of this Protective Order ("Order") is to facilitate the disclosure of documents and information during the course of these proceedings and to protect Confidential Information and Highly Confidential Information. Access to and review of Confidential Information and Highly Confidential Information by parties other than government agencies shall be strictly controlled by the terms of this Order. The parties other than government agencies have represented and agree that Confidential Information and Highly Confidential Information as defined in this Order constitute "trade secret information" under Minn. Stat. § 13.37, subd. 1(b), and "nonpublic data" under Minn. Stat. § 13.02, subd. 9. The parties other than government agencies have

acknowledged that the government agencies involved in this docket, which include the Minnesota Public Utilities Commission ("Commission"), the Office of Administrative Hearings ("OAH"), the Minnesota of Commerce ("Department"), and the Office of Attorney General ("OAG") and Office of Attorney General-Residential and Small Business Utilities Division ("OAG-RUD") are subject to the Minnesota Government Data Practices Act ("MGDPA")¹ and records retention requirements of Minn. Stat. §§ 138.163-138.226. The parties other than government agencies, which parties are hereinafter referred to as "parties", "persons" or "entities" have further agreed to the terms of paragraphs one through twelve below, and, upon that agreement, and all the files, records and proceedings herein, it is hereby ordered:

1. (a) Confidential Information. All documents, data, studies and other materials furnished pursuant to any requests for information, subpoenas or other modes of discovery (formal or informal), and including depositions, and other requests for information, that are claimed to be of a trade secret, proprietary or confidential nature (herein referred to as "Confidential Information"), shall be so marked by the providing party by stamping the same with a "NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA" designation. All copies of documents so marked shall be made on yellow paper. In addition, all notes or other materials that refer to, derive from, or otherwise contain parts of the Confidential Information will be marked by the receiving party as "NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA." Access to and review of Confidential Information shall be strictly controlled by the terms of this Order.

¹ Minn. Stat. Chapter 13.

(b) Use of Confidential Information – Proceedings. All persons who may be entitled to review, or who are afforded access to any Confidential Information by reason of this Order shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than the purpose of preparation for and conduct of proceeding in the above-captioned docket or before the Federal Communications Commission ("FCC"), and all subsequent appeals ("proceedings"), and shall keep the Confidential Information secure as trade secret, confidential or proprietary information and in accordance with the purposes, intent and requirements of this Order.

(c) Persons Entitled to Review. Each party that receives Confidential Information pursuant to this Order must limit access to such Confidential Information to (1) attorneys employed or retained by the party in proceedings and the attorneys' staff; (2) experts, consultants and advisors who need access to the material to assist the party in proceedings; (3) only those employees of the party who are directly involved in these proceedings, provided that counsel for the party represents that no such employee is engaged in the sale or marketing of that party's products or services. In addition, access to Confidential Information may be provided to the government agencies, their counsel, employees, consultants and experts.

(d) Nondisclosure Agreement. Any party, person, or entity that receives Confidential Information pursuant to this Order shall not disclose such Confidential Information to any person, except persons who are described in section 1(c) above and who have signed a nondisclosure agreement in the form which is attached hereto and incorporated herein as Exhibit A. Court reporters whose activities

are not regulated by Minn. Stat. Ch. 13 shall also be required to sign an Exhibit A upon written request of a party and to comply with the terms of this Order.

The nondisclosure agreement (Exhibit A) shall require the person(s) to whom disclosure is to be made to read a copy of this Protective Order and to certify in writing that they have reviewed the same and have consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, employer, business address and the name of the party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party before disclosure is made, and if no objection thereto is registered to the Commission within five (5) days, then disclosure shall follow. An attorney who makes Confidential Information available to any person listed in section 1(c) above shall be responsible for having each such person execute an original of Exhibit A and a copy of all such signed Exhibit As shall be circulated to all other counsel of record promptly after execution.

2. (a) Notes. Limited notes regarding Confidential Information may be taken by counsel and experts for the express purpose of preparing pleadings, cross-examinations, briefs, motions and arguments in connection with this proceeding, or in the case of persons designated in section 1(c) of this Protective Order, to prepare for participation in this proceeding. Such notes shall then be treated as Confidential Information for purposes of this Order, and shall be destroyed after the final settlement or conclusion of the proceedings in accordance with section 2(b) below.

(b) Destruction. All notes, to the extent they contain Confidential Information and are protected by the attorney-client privilege or the work product doctrine, shall be destroyed after the final settlement or conclusion of the proceedings.

The party destroying such Confidential Information shall advise the providing party of that fact within a reasonable time from the date of destruction.

3. Highly Confidential Trade Secret Information. Any person, whether a party or non-party, may designate certain competitive Confidential Information as "Highly Confidential Trade Secret Information" (herein referred to as "Highly Confidential Information") if it determines in good faith that it would be competitively disadvantaged by the disclosure of such information to its competitors. Highly Confidential Information includes, but is not limited to, documents, pleadings, briefs and appropriate portions of deposition transcripts, which contain information regarding the market share of, number of access lines served by, or number of customers receiving a specified type of service from a particular provider or other information that relates to marketing, business planning or business strategies.

Parties must scrutinize carefully responsive documents and information and limit their designations as Highly Confidential Information to information that truly might impose a serious business risk if disseminated without the heightened protections provided in this section. The first page and individual pages of a document determined in good faith to include Highly Confidential Information must be marked by a stamp that reads:

NONPUBLIC HIGHLY CONFIDENTIAL TRADE SECRET
INFORMATION—USE RESTRICTED PER PROTECTIVE ORDER
IN MPUC DOCKET NOS. P-5692, 5340, 5643, 5323, 485, 6422/M-06-211
AND P-999/CJ-06-685

Placing a "Highly Confidential" stamp on the first page of a document indicates only that one or more pages contain Highly Confidential Information and will not serve to protect the entire contents of a multi-page document. Each page that contains Highly

Confidential Information must be marked separately to indicate Highly Confidential Information, even where that information has been redacted. The redacted versions of each page containing Highly Confidential Information, and provided under seal, should be submitted on paper distinct in color from non-confidential information and Confidential Information described in section 1 of this Protective Order.

Parties seeking disclosure of Highly Confidential Information must designate the person(s) to whom they would like the Highly Confidential Information disclosed in advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit B of the nondisclosure agreement identified in section 1(d). Parties seeking disclosure of Highly Confidential Information shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Confidential Information; (2) five in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as Highly Confidential. Disclosure of Highly Confidential Information to Commissioners, Hearing Officers and Commission Advisory Staff members shall be limited to persons to whom disclosure is necessary. The Exhibit B also shall describe in detail the duties or responsibilities of the person being designated to see Highly Confidential Information and the person's role in the proceeding. Highly Confidential Information may not be disclosed to persons engaged in strategic or competitive decision making for any party, including the sale or marketing of products or services on behalf of any party.

Any party providing either Confidential Information or Highly Confidential Information may object to the designation of any individual as a person who may review Confidential Information and/or Highly Confidential Information. Such objection shall be

made in writing to counsel submitting the challenged individual's Exhibit A or B within three (3) business days after receiving the challenged individual's signed Exhibit A or B. Any such objection must demonstrate good cause to exclude the challenged individual from the review of the Highly Confidential Information. Written response to any objection shall be made within three (3) business days after receipt of an objection. If, after receiving a written response to a party's objection, the objecting party still objects to disclosure of either Confidential Information or Highly Confidential Information to the challenged individual, the Commission shall determine whether Confidential Information or Highly Confidential Information must be disclosed to the challenged individual.

Copies of Highly Confidential Information may be provided to the in-house attorneys, in-house consultants, outside counsel and outside experts who have signed Exhibit B, and to the Department and OAG-RUD, their employees and counsel, and to their consultants and experts who have signed Exhibit B.

Persons authorized to review the Highly Confidential Information will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings and then such disclosure and copies shall be subject to the provisions of this Order. Any testimony or exhibits prepared that reflect Highly Confidential Information must be maintained in a secure location until removed to the hearing room for production under seal. Unless specifically addressed in this section, all other sections of this Protective Order applicable to Confidential Information also apply to Highly Confidential Information.

4. Small Company. Notwithstanding anything to the contrary in this Order,

persons authorized to review Confidential Information and Highly Confidential Information on behalf of a company with less than 5,000 employees shall be limited to the following: (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Confidential Information; (2) a reasonable number of outside counsel; (3) the company's employees and witnesses; and (4) independent consultants acting under the direction of the company's counsel or senior management and directly engaged in this proceeding. Such persons do not include individuals primarily involved in marketing activities for the company, unless the party producing the information, upon request, gives prior written authorization for that person to review the Confidential Information or Highly Confidential Information. If the producing party refuses to give such written authorization, the company may, for good cause shown, request an order from the Administrative Law Judge ("ALJ") allowing that person to review the Confidential Information or Highly Confidential Information. The producing party shall be given the opportunity to respond to the company's request before an order is issued.

5. Masking. Information or documents provided in this proceeding showing the identity of any fiber-based collocators in a wire center must be designated as Confidential. Similarly, any information or documents provided in this proceeding showing the identity of a telecommunications carrier's business lines or line counts must be provided in a "masked" format, identifying the information using a code, and must be designated as Confidential. Each individual carrier will be provided its own code to verify data concerning that carrier. The government agencies will be provided a code for each carrier identified in the information or documents provided.

6. Objections to Admissibility. The furnishing of any document, data, study or other materials pursuant to this Protective Order shall in no way limit the right of the providing party to object to its relevance or admissibility in proceedings before this Commission.

7. Challenge to Confidentiality. This Order establishes a procedure for the expeditious handling of information that a party claims is Confidential or Highly Confidential. It shall not be construed as an agreement or ruling on the confidentiality of any document. Any party may challenge the characterization of any information, document, data or study claimed by the providing party to be Confidential in the following manner:

(a) A party seeking to challenge the confidentiality of any materials pursuant to this Order shall first contact counsel for the providing party and attempt to resolve any differences by stipulation;

(b) In the event that the parties cannot agree as to the character of the information challenged, any party challenging the confidentiality shall do so by appropriate pleading. This pleading shall:

(i) Designate the document, transcript or other material challenged in a manner that will specifically isolate the challenged material from other material claimed as confidential; and

(ii) State with specificity the grounds upon which the documents, transcript or other material are deemed to be non-confidential by the challenging party.

(c) A ruling on the confidentiality of the challenged information,

document, data or study shall be made by a Hearing Officer after proceedings in camera, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such Confidential materials shall be present. This hearing shall commence no earlier than five (5) business days after service on the providing party of the pleading required by section 7(b) above.

(d) The record of said in camera hearing shall be marked "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER IN MPUC DOCKET NOS. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 AND P-999/CI-06-685." Court reporter notes of such hearing shall be transcribed only upon agreement by the parties or order of the Hearing Officer and in that event shall be separately bound, segregated, sealed, and withheld from inspection by any person not bound by the terms of this Order.

(e) In the event that the Hearing Officer should rule that any information, document, data or study should be removed from the restrictions imposed by this Order, no party shall disclose such information, document, data or study or use it in the public record for five (5) business days unless authorized by the providing party to do so. The provisions of this subsection are intended to enable the providing party to seek a stay or other relief from an order removing the restriction of this Order from materials claimed by the providing party to be Confidential.

8. (a) Receipt into Evidence. Provision is hereby made for receipt into evidence in this proceeding materials claimed to be confidential in the following manner:

(i) Prior to the use of, or substantive reference to, any Confidential or Highly Confidential Information, the parties intending to use such information shall make that intention known to the providing party.

(ii) The requesting party and the providing party shall make a good-faith effort to reach an agreement so the information can be used in a manner which will not reveal its trade secret, confidential or proprietary nature.

(iii) If such efforts fail, the providing party shall separately identify which portions, if any, of the documents to be offered or referenced shall be placed in a sealed record.

(iv) Only one (1) copy of the documents designated by the providing party to be placed in a sealed record shall be made.

(v) The copy of the documents to be placed in the sealed record shall be tendered by counsel for the providing party to the Commission, and maintained in accordance with the terms of this Order.

(b) Seal. While in the custody of the Commission, materials containing Confidential Information shall be marked "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER IN MPUC DOCKET NOS. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 AND P-999/CI-06-685" and Highly Confidential Information shall be marked "HIGHLY CONFIDENTIAL - USE RESTRICTED PER PROTECTIVE ORDER IN MPUC DOCKET NOS. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 AND P-999/CI-06-685," and shall not be examined by any person except under the conditions set forth in this Order.

(c) In Camera Hearing. Any Confidential or Highly Confidential Information that must be orally disclosed to be placed in the sealed record in this proceeding shall be offered in an in camera hearing, attended only by persons authorized to have access to the information under this Order. Similarly, any cross-

examination on, or substantive reference to, Confidential or Highly Confidential Information (or that portion of the record containing Confidential or Highly Confidential Information or references thereto) shall be received in an in camera hearing, and shall be marked and treated as provided herein.

(d) Access to Record. Access to sealed testimony, records and information shall be limited to the Hearing Officer and persons who are entitled to review Confidential or Highly Confidential Information pursuant to section 1(c) above and have signed an Exhibit A or B, unless such information is released from the restrictions of this Order either through agreement of the parties or after notice to the parties and hearing, pursuant to the ruling of a Hearing Officer, the order of the Commission and/or final order of a court having final jurisdiction.

(e) Appeal/Subsequent Proceeding. Sealed portions of the record in this proceeding may be forwarded to any court of competent jurisdiction for purposes of an appeal, or to the FCC, but under seal as designated herein for the information and use of the court or the FCC. If a portion of the record is forwarded to a court or the FCC, the providing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal or for use at the FCC.

(f) Return. Unless otherwise ordered, Confidential Information and Highly Confidential Information, including transcripts of any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the protective requirements of this Order, and shall be returned to counsel for the providing party within thirty (30) days after final settlement or conclusion of the proceedings. If the

providing party elects to have Confidential Information or Highly Confidential Information destroyed rather than returned, counsel of the receiving party shall verify in writing that the material has in fact been destroyed.

9. Use in Pleadings. Where references to Confidential or Highly Confidential Information in the sealed record or with the providing party is required in pleadings, briefs, arguments or motions (except as provided in section 7), it shall be by citation of title or exhibit number or some other description that will not disclose the substantive Confidential Information contained therein. Any use of or substantive references to Confidential or Highly Confidential Information shall be placed in a separate section of the pleading or brief and submitted to the Hearing Officer or the Commission under seal. This sealed section shall be served only on counsel of record and parties of record who have signed the nondisclosure agreement set forth in Exhibit A or B. All of the restrictions afforded by this Order apply to materials prepared and distributed under this section.

10. Summary of Record. If deemed necessary by the Commission or ALJ, the providing party shall prepare a written summary of the Confidential or Highly Confidential Information referred to in the Order to be placed on the public record.

11. The provisions of this Order are specifically intended to apply to all data, documents, studies, and other material designated as Confidential or Highly Confidential by any party to MPUC Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-999/C1-06-685. In addition, experts and consultants of government agencies are subject to the provisions of this Protective Order that are applicable to experts and consultants of parties.

12. This Protective Order shall continue in force and effect after these dockets are closed.

Dated: June 28, 2006.

s/Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

EXHIBIT A

CONFIDENTIAL INFORMATION

I have read the foregoing Protective Order dated _____ 2006, in MPUC
Docket Nos. P-5692, 5340, 5643, 5323, 465, 6422/M-06-211 and P-999/CI-06-685P-
421/CI-05-1996, and agree to be bound by the terms and conditions of this Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

EXHIBIT B

HIGHLY CONFIDENTIAL INFORMATION

I have read the foregoing Protective Order dated _____ 2006, in MPUC
Docket Nos. P-5692, 5340, 5843, 5323, 465, 6422/M-06-211 AND P-999/CI-06-685,
and agree to be bound by the terms and conditions of this Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

ATTACHMENT 2:
DRAFT OREGON PROTECTIVE ORDER

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1326

**In the Matter of Qwest
Corporation Petition for
Commission Approval of 2007
Additions to Non-Impaired Wire
Center List**

PROTECTIVE ORDER

The purpose of this Protective Order ("Order") is to facilitate the disclosure of documents and information during the course of these proceedings and to protect Confidential Information and Highly Confidential Information. Access to and review of Confidential Information and Highly Confidential Information by parties shall be strictly controlled by the terms of this Order. The parties, which parties are hereinafter referred to as "parties", "persons" or "entities" have further agreed to the terms of paragraphs one through twelve below, and, upon that agreement, and all the files, records and proceedings herein, it is hereby ordered:

1. (a) Confidential Information. All documents, data, studies and other materials furnished pursuant to any requests for information, subpoenas or other modes of discovery (formal or informal), and including depositions, and other requests for information, that are claimed to be of a trade secret, proprietary or confidential nature (herein referred to as "Confidential Information"), shall be so marked by the providing party by stamping the same with a "NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA" designation. All copies of documents so marked shall be made on yellow paper. In addition, all notes or other materials that refer to, derive from, or

otherwise contain parts of the Confidential Information will be marked by the receiving party as "NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA." Access to and review of Confidential Information shall be strictly controlled by the terms of this Order.

(b) Use of Confidential Information – Proceedings. All persons who may be entitled to review, or who are afforded access to any Confidential Information by reason of this Order shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than the purpose of preparation for and conduct of proceeding in the above-captioned docket or before the Federal Communications Commission ("FCC"), and all subsequent appeals ("proceedings"), and shall keep the Confidential Information secure as trade secret, confidential or proprietary information and in accordance with the purposes, intent and requirements of this Order.

(c) Persons Entitled to Review. Each party that receives Confidential Information pursuant to this Order must limit access to such Confidential Information to (1) attorneys employed or retained by the party in proceedings and the attorneys' staff; (2) experts, consultants and advisors who need access to the material to assist the party in proceedings; (3) only those employees of the party who are directly involved in these proceedings, provided that counsel for the party represents that no such employee is engaged in the sale or marketing of that party's products or services. In addition, access to Confidential Information may be provided to the government agencies, their counsel, employees, consultants and experts.

(d) Nondisclosure Agreement. Any party, person, or entity that

receives Confidential Information pursuant to this Order shall not disclose such Confidential Information to any person, except persons who are described in section 1(c) above and who have signed a nondisclosure agreement in the form which is attached hereto and incorporated herein as Exhibit A. Court reporters whose activities are not regulated by statute or rule shall also be required to sign an Exhibit A upon written request of a party and to comply with the terms of this Order.

The nondisclosure agreement (Exhibit A) shall require the person(s) to whom disclosure is to be made to read a copy of this Protective Order and to certify in writing that they have reviewed the same and have consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, employer, business address and the name of the party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party before disclosure is made, and if no objection thereto is registered to the Commission within five (5) days, then disclosure shall follow. An attorney who makes Confidential Information available to any person listed in section 1(c) above shall be responsible for having each such person execute an original of Exhibit A and a copy of all such signed Exhibit As shall be circulated to all other counsel of record promptly after execution.

2. (a) Notes. Limited notes regarding Confidential Information may be taken by counsel and experts for the express purpose of preparing pleadings, cross-examinations, briefs, motions and arguments in connection with this proceeding, or in the case of persons designated in section 1(c) of this Protective Order, to prepare for participation in this proceeding. Such notes shall then be treated as Confidential Information for purposes of this Order, and shall be destroyed after the final settlement

or conclusion of the proceedings in accordance with section 2(b) below.

(b) Destruction. All notes, to the extent they contain Confidential Information and are protected by the attorney-client privilege or the work product doctrine, shall be destroyed after the final settlement or conclusion of the proceedings. The party destroying such Confidential Information shall advise the providing party of that fact within a reasonable time from the date of destruction.

3. Highly Confidential Trade Secret Information. Any person, whether a party or non-party, may designate certain competitive Confidential Information as “Highly Confidential Trade Secret Information” (herein referred to as “Highly Confidential Information”) if it determines in good faith that it would be competitively disadvantaged by the disclosure of such information to its competitors. Highly Confidential Information includes, but is not limited to, documents, pleadings, briefs and appropriate portions of deposition transcripts, which contain information regarding the market share of, number of access lines served by, or number of customers receiving a specified type of service from a particular provider or other information that relates to marketing, business planning or business strategies.

Parties must scrutinize carefully responsive documents and information and limit their designations as Highly Confidential Information to information that truly might impose a serious business risk if disseminated without the heightened protections provided in this section. The first page and individual pages of a document determined in good faith to include Highly Confidential Information must be marked by a stamp that reads:

**NONPUBLIC HIGHLY CONFIDENTIAL TRADE SECRET
INFORMATION—USE RESTRICTED PER PROTECTIVE ORDER**

IN OREGON PUC DOCKET NO. UM 1326.

Placing a "Highly Confidential" stamp on the first page of a document indicates only that one or more pages contain Highly Confidential Information and will not serve to protect the entire contents of a multi-page document. Each page that contains Highly Confidential Information must be marked separately to indicate Highly Confidential Information, even where that information has been redacted. The redacted versions of each page containing Highly Confidential Information, and provided under seal, should be submitted on paper distinct in color from non-confidential information and Confidential Information described in section 1 of this Protective Order.

Parties seeking disclosure of Highly Confidential Information must designate the person(s) to whom they would like the Highly Confidential Information disclosed in advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit B of the nondisclosure agreement identified in section 1(d). Parties seeking disclosure of Highly Confidential Information shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Confidential Information; (2) five in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as Highly Confidential. Disclosure of Highly Confidential Information to Commissioners, Hearing Officers and Commission Advisory Staff members shall be limited to persons to whom disclosure is necessary. The Exhibit B also shall describe in detail the duties or responsibilities of the person being designated to see Highly Confidential Information and the person's role in the proceeding. Highly Confidential Information may not be disclosed to persons engaged in strategic or competitive decision making for any party,

including the sale or marketing of products or services on behalf of any party.

Any party providing either Confidential Information or Highly Confidential Information may object to the designation of any individual as a person who may review Confidential Information and/or Highly Confidential Information. Such objection shall be made in writing to counsel submitting the challenged individual's Exhibit A or B within three (3) business days after receiving the challenged individual's signed Exhibit A or B. Any such objection must demonstrate good cause to exclude the challenged individual from the review of the Highly Confidential Information. Written response to any objection shall be made within three (3) business days after receipt of an objection. If, after receiving a written response to a party's objection, the objecting party still objects to disclosure of either Confidential Information or Highly Confidential Information to the challenged individual, the Commission shall determine whether Confidential Information or Highly Confidential Information must be disclosed to the challenged individual.

Copies of Highly Confidential Information may be provided to the in-house attorneys, in-house consultants, outside counsel and outside experts who have signed Exhibit B.

Persons authorized to review the Highly Confidential Information will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings and then such disclosure and copies shall be subject to the provisions of this Order. Any testimony or exhibits prepared that reflect Highly Confidential Information must be maintained in a secure location until removed to the hearing room for production under seal. Unless specifically addressed in this section,

all other sections of this Protective Order applicable to Confidential Information also apply to Highly Confidential Information.

4. Small Company. Notwithstanding anything to the contrary in this Order, persons authorized to review Confidential Information and Highly Confidential Information on behalf of a company with less than 5,000 employees shall be limited to the following: (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Confidential Information; (2) a reasonable number of outside counsel; (3) the company's employees and witnesses; and (4) independent consultants acting under the direction of the company's counsel or senior management and directly engaged in this proceeding. Such persons **do not** include individuals primarily involved in marketing activities for the company, unless the party producing the information, upon request, gives prior written authorization for that person to review the Confidential Information or Highly Confidential Information. If the producing party refuses to give such written authorization, the company may, for good cause shown, request an order from the Administrative Law Judge ("ALJ") allowing that person to review the Confidential Information or Highly Confidential Information. The producing party shall be given the opportunity to respond to the company's request before an order is issued.

5. Masking. Information or documents provided in this proceeding showing the identity of any fiber-based collocators in a wire center must be designated as Confidential. Similarly, any information or documents provided in this proceeding showing the identity of a telecommunications carrier's business lines or line counts must be provided in a "masked" format, identifying the information using a code, and must be

designated as Confidential. Each individual carrier will be provided its own code to verify data concerning that carrier. The government agencies will be provided a code for each carrier identified in the information or documents provided.

6. Objections to Admissibility. The furnishing of any document, data, study or other materials pursuant to this Protective Order shall in no way limit the right of the providing party to object to its relevance or admissibility in proceedings before this Commission.

7. Challenge to Confidentiality. This Order establishes a procedure for the expeditious handling of information that a party claims is Confidential or Highly Confidential. It shall not be construed as an agreement or ruling on the confidentiality of any document. Any party may challenge the characterization of any information, document, data or study claimed by the providing party to be Confidential in the following manner:

(a) A party seeking to challenge the confidentiality of any materials pursuant to this Order shall first contact counsel for the providing party and attempt to resolve any differences by stipulation;

(b) In the event that the parties cannot agree as to the character of the information challenged, any party challenging the confidentiality shall do so by appropriate pleading. This pleading shall:

(i) Designate the document, transcript or other material challenged in a manner that will specifically isolate the challenged material from other material claimed as confidential; and

(ii) State with specificity the grounds upon which the

documents, transcript or other material are deemed to be non-confidential by the challenging party.

(c) A ruling on the confidentiality of the challenged information, document, data or study shall be made by a Hearing Officer after proceedings in camera, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such Confidential materials shall be present. This hearing shall commence no earlier than five (5) business days after service on the providing party of the pleading required by section 7(b) above.

(d) The record of said in camera hearing shall be marked "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER IN OREGON PUC DOCKET NO. UM 1326." Court reporter notes of such hearing shall be transcribed only upon agreement by the parties or order of the Hearing Officer and in that event shall be separately bound, segregated, sealed, and withheld from inspection by any person not bound by the terms of this Order.

(e) In the event that the Hearing Officer should rule that any information, document, data or study should be removed from the restrictions imposed by this Order, no party shall disclose such information, document, data or study or use it in the public record for five (5) business days unless authorized by the providing party to do so. The provisions of this subsection are intended to enable the providing party to seek a stay or other relief from an order removing the restriction of this Order from materials claimed by the providing party to be Confidential.

8. (a) Receipt into Evidence. Provision is hereby made for receipt into evidence in this proceeding materials claimed to be confidential in the following manner:

(i) Prior to the use of, or substantive reference to, any Confidential or Highly Confidential Information, the parties intending to use such information shall make that intention known to the providing party.

(ii) The requesting party and the providing party shall make a good-faith effort to reach an agreement so the information can be used in a manner which will not reveal its trade secret, confidential or proprietary nature.

(iii) If such efforts fail, the providing party shall separately identify which portions, if any, of the documents to be offered or referenced shall be placed in a sealed record.

(iv) Only one (1) copy of the documents designated by the providing party to be placed in a sealed record shall be made.

(v) The copy of the documents to be placed in the sealed record shall be tendered by counsel for the providing party to the Commission, and maintained in accordance with the terms of this Order.

(b) Seal. While in the custody of the Commission, materials containing Confidential Information shall be marked "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER IN OREGON PUC DOCKET NO. UM 1326." and Highly Confidential Information shall be marked "HIGHLY CONFIDENTIAL – USE RESTRICTED PER PROTECTIVE ORDER IN OREGON PUC DOCKET NO. UM 1326," and shall not be examined by any person except under the conditions set forth in this Order.

(c) In Camera Hearing. Any Confidential or Highly Confidential Information that must be orally disclosed to be placed in the sealed record in this

proceeding shall be offered in an in camera hearing, attended only by persons authorized to have access to the information under this Order. Similarly, any cross-examination on, or substantive reference to, Confidential or Highly Confidential Information (or that portion of the record containing Confidential or Highly Confidential Information or references thereto) shall be received in an in camera hearing, and shall be marked and treated as provided herein.

(d) Access to Record. Access to sealed testimony, records and information shall be limited to the Hearing Officer and persons who are entitled to review Confidential or Highly Confidential Information pursuant to section 1(c) above and have signed an Exhibit A or B, unless such information is released from the restrictions of this Order either through agreement of the parties or after notice to the parties and hearing, pursuant to the ruling of a Hearing Officer, the order of the Commission and/or final order of a court having final jurisdiction.

(e) Appeal/Subsequent Proceeding. Sealed portions of the record in this proceeding may be forwarded to any court of competent jurisdiction for purposes of an appeal, or to the FCC, but under seal as designated herein for the information and use of the court or the FCC. If a portion of the record is forwarded to a court or the FCC, the providing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal or for use at the FCC.

(f) Return. Unless otherwise ordered, Confidential Information and Highly Confidential Information, including transcripts of any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the

protective requirements of this Order, and shall be returned to counsel for the providing party within thirty (30) days after final settlement or conclusion of the proceedings. If the providing party elects to have Confidential Information or Highly Confidential Information destroyed rather than returned, counsel of the receiving party shall verify in writing that the material has in fact been destroyed.

9. Use in Pleadings. Where references to Confidential or Highly Confidential Information in the sealed record or with the providing party is required in pleadings, briefs, arguments or motions (except as provided in section 7), it shall be by citation of title or exhibit number or some other description that will not disclose the substantive Confidential Information contained therein. Any use of or substantive references to Confidential or Highly Confidential Information shall be placed in a separate section of the pleading or brief and submitted to the Hearing Officer or the Commission under seal. This sealed section shall be served only on counsel of record and parties of record who have signed the nondisclosure agreement set forth in Exhibit A or B. All of the restrictions afforded by this Order apply to materials prepared and distributed under this section.

10. Summary of Record. If deemed necessary by the Commission or ALJ, the providing party shall prepare a written summary of the Confidential or Highly Confidential Information referred to in the Order to be placed on the public record.

11. The provisions of this Order are specifically intended to apply to all data, documents, studies, and other material designated as Confidential or Highly Confidential by any party to OREGON PUC DOCKET NO. UM 1326. In addition, experts and consultants of government agencies are subject to the provisions of this Protective Order

that are applicable to experts and consultants of parties.

12. This Protective Order shall continue in force and effect after these dockets are closed.

Dated:

By:

EXHIBIT A

CONFIDENTIAL INFORMATION

I have read the foregoing Protective Order dated _____ in Oregon PUC
Docket No. UM 1326, and agree to be bound by the terms and conditions of this Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

EXHIBIT B

HIGHLY CONFIDENTIAL INFORMATION

I have read the foregoing Protective Order dated _____ in Oregon PUC Docket No. UM 1326, and agree to be bound by the terms and conditions of this Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

ATTACHMENT 3

**Excerpt from Transcript of Arizona Procedural
Conference Regarding Protective Order**

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION)	DOCKET NOS.
OF DIECA COMMUNICATIONS DBA COVAD)	T-03632A-06-0091
COMMUNICATIONS COMPANY, ESCHELON)	T-03267A-06-0091
TELECOM OF ARIZONA, INC.,)	T-04302A-06-0091
MCLEODUSA TELECOMMUNICATIONS)	T-03406A-06-0091
SERVICES, INC., MOUNTAIN)	T-03432A-06-0091
TELECOMMUNICATIONS, INC., XO)	T-01051B-05-0091
COMMUNICATIONS SERVICES, INC. AND)	
QWEST CORPORATION'S REQUEST FOR)	
COMMISSION PROCESS TO ADDRESS KEY)	
UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER)	
LISTS.)	PROCEDURAL
)	CONFERENCE

At: Phoenix, Arizona
Date: July 19, 2007
Filed:

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ARIZONA REPORTING SERVICE, INC.
Court Reporting
Suite 502
2200 North Central Avenue
Phoenix, Arizona 85004-1481

By: MICHELE E. BALMER
Certified Reporter
Certificate No. 50489

Page 14

1 trying to respond to Mr. Curtright's concern.
2 MR. CURTRIGHT: A point which I now regret
3 raising.
4 ACALJ NODES: Okay. I think we can deal with it
5 as long as everyone identifies the information in the
6 proper manner. So why don't we for talking purposes in
7 future filings do the best you can identifying it as the
8 2007 additions, and we'll tentatively label it as
9 Phase II.
10 MR. CURTRIGHT: Point of clarification, then,
11 Judge Nodes. In Phase I, we had a service list that was,
12 if I may say, skinned down. We asked the very large mass
13 of service-listed people, if you recall, whether or not
14 they wished to actively receive documents, and a small
15 number of participants replied affirmatively. And we've
16 been carrying them forward on our mailing list for service
17 and that sort of thing since then.
18 Would it be safe to assume that we will continue
19 to use that same service list that we currently have for
20 Phase II? My thought is that those people have been on
21 notice about the issues, and particularly since this is
22 now in the same docket, they know the same number to check
23 if they do want to become re-involved.
24 ACALJ NODES: That would be my inclination, but
25 let me ask the other parties if they have any different

Page 15

1 thoughts.
2 Ms. Scott, do you believe that maintaining the
3 current service list of those people who previously
4 affirmatively identified an interest is sufficient?
5 MS. SCOTT: Yes, I believe it is.
6 ACALJ NODES: And Ms. Clauson, you as well?
7 MS. CLAUSON: I just raise there is one point of
8 difference between the Joint CLECs and Qwest, and I don't
9 know if this goes to that or not, and Norm will correct me
10 if I'm wrong.
11 I believe Qwest's position is the settlement
12 agreement should be binding on all CLECs, and the Joint
13 CLECs' position is that it should be binding on just those
14 who signed it. And one of the arguments that they may
15 make relates to who had notice, and I don't know if the
16 next issues will settle how that will work. So I guess
17 depending on where that issue is, it may or may not impact
18 who gets served.
19 ACALJ NODES: Okay. Well, do you have in mind,
20 Ms. Clauson, another -- I mean, a broader group of CLECs
21 who you believe should be given notice of Phase II of this
22 proceeding?
23 MS. CLAUSON: No. Since it's our position that
24 the agreement, you know, applies to those who sign it, the
25 notice issue doesn't affect us so much. I guess that's

Page 16

1 more of a Qwest issue. And if they're satisfied with the
2 current list, that's fine with us.
3 MR. CURTRIGHT: We're satisfied.
4 ACALJ NODES: Okay. And I think as Mr. Curtright
5 indicated, I mean, given that this is -- and this probably
6 reinforces the idea that we should maintain this same
7 docket open for this additional phase. That if people are
8 checking who have been following the proceeding and have
9 an interest in it, that they'll be able to see what the
10 subsequent information is and basically what is going on
11 in the proceeding.
12 So, you know, we previously gave everyone an
13 opportunity to be included in the service list, and so it
14 seems to me that anyone who didn't so indicate proceeds at
15 their own peril, basically, but that's my thought.
16 MS. CLAUSON: And they just may be proceeding in
17 another venue --
18 ACALJ NODES: Could you repeat that, Ms. Clauson?
19 MS. CLAUSON: Yes. They simply may be proceeding
20 in another venue such as their own IC arbitration, for
21 example.
22 ACALJ NODES: Their own what arbitration?
23 MS. CLAUSON: I'm sorry. Interconnection
24 agreement. I'm sorry. I have a cold.
25 ACALJ NODES: And we're just trying for the court

Page 17

1 reporter's sake. She's trying to follow, and it's hard
2 over the phone sometimes to pick up every word clearly, so
3 thanks for repeating it.
4 Okay. Well, I think we've taken care of that
5 issue. Let's move next to the protective order issue.
6 Mr. Curtright, do you want to briefly address that?
7 MR. CURTRIGHT: Yes, Judge Nodes. In the
8 settlement agreement between Qwest and the Joint CLECs,
9 the parties agreed upon a form of protective order which
10 the parties seek to have used in front of the various
11 state commissions for future submissions such as the 2007
12 additions.
13 Qwest, when we filed our application for approval
14 of the 2007 additions, asked the Commission to please
15 issue a protective order based upon that form of order,
16 and it was attached to our filing that we made on June 22.
17 In defense of the protective order that we're
18 proposing, it's one which Qwest and the Joint CLECs have
19 considered. And it, I think, is a matter of significant
20 efficiency for those parties to have the same protective
21 order be used in multiple jurisdictions, and it's economic
22 in that it relieves us of the need to deal with separate
23 protective orders with the nuances that each might have,
24 varying from state to state.
25 So Qwest seeks to have that protective order

ATTACHMENT 4:
COPY OF QWEST JUNE 25, 2007 COVER LETTER

Qwest
421 SW Oak Street
Room 510
Portland, OR 97204
Telephone: 503-242-5523
Facsimile: 503-242-8588
Email: Alex.Duarte@qwest.com



Alex M. Duarte
Corporate Counsel

June 25, 2007

Administrative Hearings Division
Public Utility Commission of Oregon
P. O. Box 2148
Salem, OR 97308-2148

Re: UM - Draft Protective Order based on Protective Order in docket UM 1251

Dear Administrative Hearings Division:

On Friday, June 22, 2007, Qwest Corporation ("Qwest") filed a new petition requesting that the Commission open a docket for approval of Qwest's 2007 additions to its non-impaired wire center list as set forth in the Commission's Order No. 07-109 in the Commission's initial TRRO non-impaired wire center proceeding, docket UM 1251 and the joint settlement agreement between Qwest and a coalition of CLECs ("the Joint CLECs") that Qwest concurrently filed for Commission approval in docket UM 1251. In addition, pursuant to the Commission's Order No. 07-109 in docket UM 1251 and the settlement agreement filed for approval in docket UM 1251, Qwest requested that the Commission issue on an *expedited basis* a protective order based on the model protective order attached that it attached as Attachment A. Qwest and the Joint CLECs in docket UM 1251 negotiated and agreed to this protective order in order to allow Qwest to file confidential wire center information regarding "business line" counts and the number of "fiber-based collocators" as defined in the FCC's *Triennial Review Remand Order* ("TRRO"),¹ in the Commission's Order No. 07-109 in docket UM 1251, and in the settlement agreement filed in docket UM 1251 for which the parties seek Commission approval.

In any event, the model protective order Qwest submitted with its petition was based on the agreed-upon protective order in Minnesota. The parties agreed in the settlement agreement that Qwest would seek the prompt issuance of a protective order "based on" that Minnesota protective order, and thus Qwest did so. However, in the event the Commission prefers to use a protective order that it has previously used, such as, for example, the modified protective order in docket UM 1251 (which involved similar issues), Qwest hereby submits a Word version of a draft protective order that is based entirely on the modified protective order that the Commission adopted in docket UM 1251 (Order No. 06-141). The only changes are blanks for the docket number and order number for this new docket, and a slight change to the opening paragraph (since this draft protective order would not supersede any particular standard protective order).

¹ Order on Remand, *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, WC Docket No. 04-313 (FCC rel. February 4, 2005) (hereafter "*Triennial Review Remand Order*" or "TRRO").

Finally, whether the Commission determines to issue a protective order identical to the Minnesota protective order, or identical to the modified protective order in docket UM 1251, or decides to issue a different protective order altogether, Qwest respectfully requests that the Commission issue a protective order on an expedited basis and as soon as possible so that the CLECs who are interested in obtaining the confidential wire center data that Qwest will file on June 29, 2007 to support its non-impaired wire center list additions will have an opportunity to sign the protective order and receive the confidential data as soon as possible.

Thank you for your attention to this matter. If you have any questions regarding this matter, please feel free to call me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alex M. Duarte', written in a cursive style.

Alex M. Duarte

cc Service List from docket UM 1251

CERTIFICATE OF SERVICE

UM 1326

I hereby certify that on the 27th day of July, 2007, a Motion for a Standing Protective Order Based on Model Order filed by Eschelon Telecom of Oregon, Inc., and Objection of Eschelon Telecom of Oregon, Inc. to Qwest's Petition for Approval of 2007 Additions to Non-Impaired Wire Center List was sent via UPS overnight mail to the Oregon Public Utility Commission.

A copy of the filing was sent via U.S. Mail to the service list below.

Alex M. Duarte Qwest Corporation 421 SW Oak St., Suite 810 Portland, OR 97204 alex.duarte@qwest.com	Carla Butler Qwest Corporation 421 SW Oak St., Suite 810 Portland, OR 97204 Carla.butler@qwest.com
Ginny Zeller Eschelon Telecom of Oregon, Inc. 730 Second Ave. S., Suite 900 Minneapolis, MN 55402-2489 gazeller@eschelon.com	

DAVIS WRIGHT TREMAINE LLP

By: Barbara Lasswell
Barbara Lasswell for Mark P. Trincherro